

**254 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.1106 of 2016 (O&M)
Date of decision : October 25, 2016**

Ashwani Kumar Hallu

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Karan Nehra, Advocate for the petitioner.
Mr. Gaurav Goel, AAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Hari Ram Hallu (father of the petitioner), an Expert Weaver was working with the Government Woolen Industries Development Centre at Panipat under the Industries Department, Punjab Government since 12.01.1965. His services were terminated on 11.02.1985 as no additional post was available with the department. He expired on 23.01.1997.

When the retiral benefits were not released to the legal heirs of said Hari Ram Hallu filed as civil suit in the Court of Civil Judge (Jr. Divn.), Bhiwani on 27.10.2007, which was dismissed on 03.12.2009. The first appeal preferred by the legal heirs of Hari Ram Hallu was also dismissed on 25.04.2011. They challenged the judgment of lower court as well as the first appellate court before this Court by way of filing RSA No.4370 of 2011. The RSA came up to be heard by the Single Bench of this Court and was disposed of vide order dated 27.04.2015 (Annexure P-2), vide which this Court reversed the findings of both the courts below and passed the following order:

“In the present case, during the pendency of the appeal, the department had accepted its liability and was ready to disburse the retiral benefits, on production of succession certificate. The appellants at the same time had filed a petition for grant of succession certificate (A-3) in which notice has been issued to the General Public and the present co-appellants

Applying the ratio of the judgments mentioned above and keeping in view the fact the appellants had filed a petition for grant of succession certificate, the present appeal is allowed and the suit of the appellants is decreed with a direction that the respondents shall release the service benefits including gratuity, pension etc. within two months, after the grant of succession certificate (A-3).”

The petitioner being the legal heir of said Hari Ram Hallu, filed an application for succession certificate before the learned Civil Judge (Sr. Divn.), exercising the powers of District Judge, Bhiwani. In the said application, the Civil Judge (Sr. Divn.), Bhiwani took the view that since the details of the amount for which the succession certificate is being sought, is not mentioned and for calculating the court fee, the same is required to be mentioned. One opportunity was granted to the petitioner. Therefore, the petitioner was directed to place on file the details of said retiral benefits i.e. pension, PF, gratuity, ex-gratia and other benefits including arrears of 6th pay commission of deceased Hari Ram Hallu.

It is stated that the respondents did not submit the said details. Consequently, the present petition was filed for submitting the said calculation of pension, PFA, ex-gratia, and other benefits, in terms of the judgment(Annexure P-2) passed by this Court in RSA.

In the written statement, the respondents have taken the stand that the details of leave encashment, terminal gratuity and GPF has been provided but it was stated that compensation pension is not admissible. The family pension is also not admissible to the petitioner, so is the Group Insurance Scheme. Regarding the pension, which was to be received to the deceased during his life time, nothing has been mentioned.

After hearing learned counsel for the parties, I am of the view that it is a decree of the civil suit and is to be executed by the lower court. It is unfortunate that merely for getting the calculation of the pension, PF, gratuity, ex-gratia, etc., which were to be provided while obtaining the succession certificate, the petitioner has to approach this Court. He has to file the COCP also, which is pending before co-ordinate Bench of this Court.

I am of the view that this information could have been obtained under the RTI from the respondents and if the information was not supplied, then an appropriate application could have been filed before the Executing Court to execute the same, stating that since the details are not being supplied to the petitioner, he is unable to obtain the succession certificate. All the questions referred above are to be decided by the Executing Court and the Executing Court has vast powers to enforce the decree. The claim of the petitioner in the judgment of the lower court as well as in the judgment of this Court passed in RSA, the question of assessment of pension to the deceased and family pension to the legal heirs of the deceased are considered and decided. It being so, the details as given in Annexure R-6 are supplied to the petitioner. The petitioner is given liberty to file

execution application before the Executing Court making appropriate prayer that the respondents should be directed to pass a speaking order denying certain claim.

However, in order to cut short the delay, the respondents are directed to pass a speaking order whether the deceased Hari Ram Hallu is entitled to the pension or not and whether the family of the deceased is entitled to family pension and Group Insurance Scheme, within a period of two months from the date of receipt of certified copy of this order, after hearing the petitioner and the copy thereof be supplied to him, so that he can pursue his remedy before the Executing Court as well as before the Court granting succession certificate.

It is further directed that if the details of pension and family pension or GIS are not supplied, the petitioner shall be at liberty to fix the tentative value of the same before the Court, where the application for succession certificate is pending and the succession certificate can be issued for the said amount and in case, the greater amount is received by the petitioner, if at all, petitioner shall be liable to pay enhanced court fee on the said enhanced amount.

The respondents-Department is warned that any violation of this order will be viewed very seriously by the Court.

In view of the above, the present petition is allowed.

(KULDIP SINGH)
JUDGE

October 25, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: No