IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19602 of 2013 (O&M)
Date of decision : September 14, 2016

Smt. Sukhwinder Kaur .... Petitioner

Versus

Punjab National Bank and others .... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kunal Dawar, Advocate for the petitioner.

Mr. K.C. Bhatia, Advocate for the respondents.

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)

One Bhag Singh, who was working as Peon with Punjab National Bank, Gharuan, Tehsil Morinda, District Ropar, died in harness on 09.01.2012. The petitioner, who happens to be wife of said Bhag Singh filed an application for grant of ex-gratia (lump sum) amount, as per Policy of the Bank. The Bank rejected her claim vide order dated 05.04.2013 (Annexure P-4).

Petitioner challenged the said order by way of filing of CWP No.16637 of 2013, which was disposed of vide order dated 01.08.2013 with a direction to respondent No.3 to pass a speaking order and inform the petitioner as to why her application for grant of ex-gratia (lump-sum) amount was rejected.

Now, in pursuant to the said direction, a speaking order dated 19.08.2013 (Annexure P-9) was passed, vide which the claim of the petitioner was rejected on the ground that the monthly income of her family from all sources worked out to be more than 60% of the last drawn monthly notional gross salary of her husband, who died in harness. Therefore, she is not entitled to ex-gratia (lump-sum) amount. The said order has been impugned in the present writ petition.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Petitioner claims that her family income is less than 60% of the last drawn salary of her husband, whereas respondent-Bank in its reply has taken the stand that the ex-gratia (lump-sum) grant was to be given if the monthly income of the family from all sources, after the death/premature retirement on medical ground of the employee, is less than 60% of the last drawn gross salary of the deceased employee. For that purpose, the respondents have given the calculations, wherein they stated that as per their calculations, the last drawn salary of the deceased was ₹14,461/- and 60% of the same comes to ₹8,677/- and the monthly income of the petitioner was ₹12,617, which is more than 60% of the last drawn salary of the deceased. Therefore, the petitioner is not entitled to ex-gratia (lump-sum) grant.

For this purpose, the following detail of calculation has been mentioned:

S. No.	Particulars	Amount
1.	Immovable Property Monthly income	Residential House: 6 lakhs + 3 Bigha Agr. Land Rs.3000/-
2.	Moveable Property Monthly income	Nil Nil
3.	Total Amount of Terminal dues	Rs.4,90,976/-
4.	Total Amount of bank loans	Rs.2,02,266/-
5.	Net amount of terminal dues (15-16)	Rs.2,88,709/-
6.	Total amount of other investments	Rs.74,000/-
7.	Loan against other investment if any	Nil

8.	Net amount of other investments	Rs.74,000/-
9.	Monthly Interest on net terminal dues @ 9.5% (maximum FD interest of bank applicable as on date of death of the employee	Rs.2,285/-
10.	Monthly income from other investments	Rs.586/-
11.	Amount of monthly family pension (Basic + D.A.)	Rs.6,746/-
12.	Any other monthly income	Rs.3,000/-
13.	Total monthly income (9-12)	Rs.12,617/-
14.	Gross monthly salary of deceased	Rs.14,461/-
15.	Amount of income tax	Nil
16.	Salary net of taxes	Rs.14,461/-
17.	Eligible amount (60% of 16)	Rs.8,676/-
18.	Whether eligible for ex-gratia	No. Monthly income is Rs.12,617/- per month from all sources is more than 60% of Gross salary (Rs.8,676/-)

Learned counsel for the petitioner has referred to the Policy (Annexure P-8), wherein the family has been defined, which includes spouse and children (including legally adopted children) but excludes the married daughters. Under this Policy, the petitioner is entitled for grant of ₹6,00,000/-. In the Policy itself, the manner of calculation of monthly income is given which is reproduced as below:

"8. __CALCULATION OF MONTHLY INCOME:__

A) Amounts received under terminal benefits:

i) Provident Fund
ii) Gratuity
iii) Leave Encashment
iv) Any other amount paid under a scheme of the Bank.

SUB-TOTAL (a):

B) Liabilities to the bank:

i) Loans taken from bank and/or other Financial institutions with prior approval of the Bank.

SUB-TOTAL (b):

C) Net Corpus of Terminal Benefits: (c = a-b):

D) Investments:

i. Deposits
ii. NSCs
iii. PPF
iv. LIC policies
v. Any other

SUB-TOTAL (d):

E) ***Details of Moveable property, if any, held and monthly income derived there from*** **:**

F) ***Details of Immoveable property, if any, held and monthly income derived there from*** **:**

G) ***Monthly income of the family from all sources*** **:**

i) *Notional monthly income from interest of Bank's maximum term deposit rate as applicable as on the date of death of the employee, on the net corpus of terminal benefits received* :

ii) *Notional monthly income from investments based on notional monthly interest at Bank's maximum term deposit rate as applicable as on the date of death of the employee, on the net corpus of terminal benefits received* :

iii) *Monthly income from movable and immovalble property* :

iv) *Monthly income of family Members* :

v) *Any other monthly income* :

Total Monthly income of the family **:_____**

Petitioner also got the copy of the calculations under RTI (Annexure P-10), wherein the calculation of income was done as under:

Total Financial Benefits provided to the family of late Shri Bhag Singh and deductions made out of the terminal dues:

Amount paid (Rs.)		***Amount Deducted (Rs.)***	
Provident Fund	*175300.98*	*Housing Loan*	*14257.61*
Gratuity	*192226/-*	*Clean OD account*	*150689.27*
Leave Encashment	*14161.13*	*Festival Loan*	*8100*
Contrib. Benefit scheme	*30000/-*	*Personal Loan*	*29221*
Financial Aid (Staff Wl)	*30000/-*		
Housing Loan waivement	*7128.81*		
Arrears of increments	*41859.08*		
Total	*490976/-*	***Total***	***202267.88***

Net Dues Paid = Rs.490976.00-202267.88 = Rs.288708.12

Amount received from LIC of India Rs.74000.00

Total Amount Rs.362708.12

Monthly interest @ 8% calculated on this Rs.2418.05

Family Pension Rs.6746.00

Total monthly income Rs.23164.05

60% of Rs.14461.13 (Gross Salary of deceased) Rs.8676.68

However, in the pleadings, the income was calculated as mentioned above. A perusal of the said calculation mentioned in the written statement shows that there are two heads, which are objected to by the petitioner. First head, wherein monthly income from immovable property is taken to be ₹3,000/- and the other is at Sr. No.12. any other income from other investments is Rs.3,000/-.

Learned counsel for the respondent-Bank does not dispute that the house of the petitioner is not on rent with the tenant and is a self occupied house. It being so, since the house is self occupied house, therefore, the rental income from the immovable property cannot be counted. Therefore, ₹3,000/- is to be excluded. Second head is 'any other monthly income', which has not been explained as to on what account is any other monthly income. Monthly income is only the interest on the terminal benefits received by the petitioner and other investments which have already been taken into consideration. Therefore, inclusion of ₹3,000/- on the vague statement that it is 'any other monthly income' has to be excluded.

The net result would be that ₹6,000/- from the monthly income of the petitioner are to be excluded. If the same is excluded, the monthly income of the petitioner comes to ₹6,617/-, which is less than ₹8,677/- (60% of the last drawn salary of the deceased).

It being so, the impugned order dated 19.08.2013 (Annexure P-9) is quashed. The writ of mandamus is issued, directing the respondents to grant ex-gratia (lump-sum) amount, as per their Policy (Annexure P-8). The payment be released within two months from the date of receipt of copy of this order along with interest @ 9% per annum, starting two months from the date of death of husband of the petitioner till payment.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

September 14, 2016
sarita

Whether speaking / reasoned Yes

Whether Reportable: No