

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.2187 of 2016 (O&M)

Date of Decision: November 08, 2016

Jatinder Singh

.....Appellant

versus

Union of India and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.D.S.Patwalia, Senior Advocate with
Mr.Kannan Malik, Advocate, for the appellant.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

Appellant's claim for appointment on compassionate ground having been turned down by the authorities as well as by the learned Single Judge vide order under appeal dated 07.09.2016 that he has preferred this letters patent appeal.

[2] We have heard learned counsel for the appellant at a considerable length and gone through the record. We do not find any merit in the appeal for the reasons stated herein-after.

[3] The appellant's father joined National Hydro Power Corporation at Sunder Nagar (H.P.) as a Lower Division Clerk on 07.02.1978. He lastly served the Power Grid Corporation as a Senior Accountant. He was due for retirement on superannuation in January, 2011 but a year before, he unfortunately suffered Brain Hemorrhage while at home and died in harness on 04.01.2010.

[4] The deceased left behind the appellant and his two married sisters. It is pertinent to mention here that the appellant was born on 20.05.1983 and he was also married having two children at the time of unfortunate death of his father.

[5] The respondent-Corporation rejected the appellant's claim primarily on the ground that as per the Memorandum of Agreement arrived at between the Corporation and the employees through Bipartite Settlement, "employment to one dependent of each workman who is permanently disabled or died due to accident on duty was permissible".

[6] The question thus which arose for consideration of the learned Single Judge was whether death of the appellant's father fell within the ambit of Clause 0.5.4 of the Memorandum of Agreement?

[7] Learned Single Judge has viewed that the death of appellant's father while he was at home, cannot be considered "as a result of accident while on duty". Learned Single Judge has placed reliance on a decision of the Hon'ble Supreme Court in Steel Authority of India Limited versus Madhusudan Das and others (2008) 15 SCC 560 where an identical clause was interpreted.

[8] We are fully in agreement with the view taken by learned Single Judge. It may be true that the appellant's father went to his residence for lunch break when he unfortunately suffered Brain Hemorrhage. Assuming that he was on duty, yet it is not a case of death by accident on duty. The expression 'accident while on duty' connotes that if a workman while performing the duties meets with an accident, then only his dependent is entitled to seek employment. That was not the fact-situation in the case in hand.

[9] The status of appellant's father as workman (as he was working as Senior Accountant) is also debatable. That apart, the appellant cannot be said to be dependent on his father as he has his own family to maintain.

[10] Taking into consideration totality of the circumstances, we do not find any merit in this appeal which is accordingly dismissed.

[SURYA KANT]
JUDGE

November 08, 2016
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[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No