IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

217 **RSA-2431-2013 (O&M)**
Date of decision: 04.05.2016

HARYANA VIDHYUT PARSARAN NIGAM LTD AND ORS.

....Appellants

Versus

SEEMA DEVI

.... Respondent

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

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

Present: Mr. G.S.Hooda, Advocate for the appellants.

Mr. Ashutosh Kaushik, Advocate for the respondent.

P.B. Bajanthri, J. (Oral)

Respondent-Smt.Seema Devi's husband late Shri Avtar Singh was appointed in the appellants' organization in the month of August, 1990. He died on 8.12.2003. The appellants introduced policy relating to grant of ex-gratia on 3.8.2006. In the policy, three options were introduced which are as follows:-

"*a) Lump Sum Ex-Gratia grant provided in the Rules 2003 for Rs.2.50 lacs, where death occurred prior to 18.11.2005 (Form B);*

b) Lump sum Ex-Gratia grant provided in the Rules

2005 for Rs. Five lacs where death occurred after 18.11.2001 (Form B);

c) Financial Assistance, a sum equal to the pay and allowances that was last drawn by deceased employee in the normal course without raising a specific claim as per clause 5(1) Sub Clause (A), (B) & (c) and 2 to 5 of Rules 2006 (Form A).”

It is also relevant to reproduce Item No. 6 of the policy which reads as follows:-

“6. All pending cases of ex-gratia assistance shall be covered under the new rules. The calculation of the period and payment shall be made to such cases from the date of notification of these rules. However, the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employee Rules, 2006.”

Respondent had opted for Item No. 'c' namely Financial Assistance, a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim as per Clause 5(1) Sub Clause (A), (B) and (C) and 2 to 5 of Rules 2006 (Form A). Pursuant to the option exercised by the respondent the appellant extended the benefit on 25.1.2007. However, order dated 25.1.2007 extending the benefit under Clause C has been withdrawn on

17.1.2008 stating that the respondent is entitled to ex-gratia only under 'Clause a' namely lump sum ex-gratia grant provided under Rules 2003 for Rs.2.50 lacs, where death occurred prior to 18.11.2005 Form B. The respondent feeling aggrieved by the decision of the appellant filed a civil suit. Her Civil Suit No. 407 of 2008 was decided on 18.7.2011 against respondent. Further respondent preferred a civil appeal before the Ist Additional District Judge, Kurukshetra. Her appeal was decided on 20.2.2013 in her favour. Petitioner aggrieved by the appellant authority's order passed in Civil Appeal No. 126 of 2011 dated 20.2.2013 presented this appeal.

Learned counsel for the appellant submitted that as per the Policy the respondent is entitled to ex-gratia benefit only under 'Clause a' of the Policy dated 3.8.2006. Therefore, ex-gratia amount disbursed to the respondent on 25.1.2007 with reference to 'Clause c' has been withdrawn and the right of the respondent has not been affected. She is entitled to ex-gratia amount under 'Clause a'.

Whenever a policy has been issued by authorities to extend certain benefits to an employee, the beneficial clause should be extended to meet object of legislation in respect of issuing any policy is in the interest of employees. When the respondent has opted 'Clause c' which is more beneficial than 'Clause a and b' she is entitled to opt for 'Clause c'. There is no infirmity in exercising 'Clause c' by the respondent herein. In fact, the appellants have acted upon the respondent's option and disburse the ex-gratia amount with reference to 'Clause c'. Therefore, withdrawing the ex-gratia benefit after nearly one year is highly arbitrary and not fair. That apart it was noticed that before withdrawing the order dated 25.1.2007 on

17.1.2008 petitioner was not heard. Learned counsel for the appellant has failed to point out how the respondent is not eligible to take ex-gratia benefit under 'Clause c' of the policy dated 01.08.2006.

Accordingly, appeal is dismissed.

(P.B. BAJANTHRI)
JUDGE

04.05.2016
pooja saini