

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

**Regular Second Appeal No. 4444 of 2013 (O&M)
Date of Decision: 08.1.2016.**

State of Haryana and othersAppellants

Vs.

Pardeep KaurRespondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Gagandeep Wasu, Addl. A.G., Haryana.

Mr. B.D.Rana, Advocate
for the respondent.

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SABINA, J.

Pardeep Kaur-respondent had filed suit for declaration that her son should be given employment on compassionate basis.

Case of the respondent was that her husband Kulwant Singh was working with the defendants as a Machine Instructor and his services were illegally terminated vide order dated 26.4.1989. The said order of termination was set aside by the Civil Court vide judgment/decreed dated 10.12.1998. Kulwant Singh had, however, died during the pendency of the suit on 25.1.1997 and his legal representatives were brought on record. The case of the respondent further was that since the termination of her husband had been set aside by the Civil Court, her son was entitled to be appointed on compassionate basis. Her claim for compassionate appointment had been wrongly rejected on the basis of Ex-gratia Assistance Scheme by the defendants.

Case of the appellants-defendants was that Kulwant

Singh was their employee and had died on 25.1.1997. Plaintiff had applied for employment for her son for the first time on 25.10.2005 i.e. after a gap of about nine years of the death of her husband. It was further averred that as per the State Government policy, no employment could be given on compassionate basis under the ex-gratia scheme.

On the pleadings of the parties, following issues were framed by the Trial Court:-

1. *Whether plaintiff is entitled to a decree of declaration as prayed for? OPP*
2. *Whether the suit of the plaintiff is not maintainable in the present form? OPD*
3. *Whether the present suit is not maintainable for want of service of notice under Section 80 CPC in the present form? OPD*
4. *Whether the plaintiff has concealed the material facts from this court? OPD*
5. *Relief.*

Suit filed by the respondent was decreed by the Trial Court vide judgment/decreed dated 4.5.2012. Aggrieved against the said judgment and decree, State preferred an appeal and the same was dismissed by the Appellate Court vide judgment/decreed dated 23.7.2013. However, the Appellate Court modified the decree to the extent that the case of the son of the plaintiff for ex-gratia employment was liable to be considered under the old policy prevalent at the time of the death of Kulwant Singh i.e. 25.1.1997. Hence, the present appeal by the appellants-defendants.

Notice of motion was issued in this case.

On 16.12.2014, following order was passed by this Court:-

“After hearing learned Counsel for the parties, it becomes apparent that at best the case of the respondent-plaintiff for ex gratia benefits will have to be considered as per the 2005 Policy keeping in view the date of decree passed whereby the husband of the plaintiff was ordered to be re-instated after setting aside of termination order of his service.

List on 19.03.2015.

In the meanwhile, learned Executing Court is directed to adjourn the case beyond the date fixed before this Court.”

On 18.5.2015, following order was passed by this Court:-

“Counsel for the appellant State states that the necessary payment of Ex-gratia under 2005 Policy will be made.

Adjourned to 27.5.2015.”

On 20.11.2015, following order was passed by this Court:-

“In compliance of orders dated 16.12.2014 and 18.05.2015, learned counsel for the appellant has produced a demand draft bearing No.”344371” dated 25.05.2015 in the sum of ₹ 5,00,000/- drawn in favour of respondent-Pardeep Kaur, in the Court today. The demand draft in original has been handed over to the

respondent, who is present in person and the photocopy of the same is taken on record.

Learned counsel for the respondent requests for an adjournment for seeking proper instructions.

Posted to 08.01.2016.

Thus, as per the 2005 policy, respondent has been paid ₹ 5,00,000/- by way of ex-gratia benefits.

Learned counsel for the respondent has submitted that the respondent has accepted the amount of ₹ 5,00,000/- paid by the appellants as per 2005 policy. Learned counsel has further submitted that the respondent was also entitled to receive interest on the said amount.

In the present case, respondent had not claimed ex-gratia benefits as per 2005 policy but had been rather claiming employment on compassionate basis for her son. In these circumstances, the argument raised by the learned counsel for the respondent that the appellants were liable to pay the interest to the respondent on the amount of ex-gratia benefits, is without any force. Since in the present case, ex-gratia benefits have been released to the respondent, the claim of the respondent stands fully satisfied.

Appeal stands disposed of accordingly.

**(SABINA)
JUDGE**

January 08, 2016
Gurpreet