

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

CR No. 3748 of 2015 (O&M)
Date of Decision: 17.08.2017

STATE OF HARYANA & ORS

-PETITIONERS

VS

SANJAY KUMAR

-RESPONDENT

CR No. 3701 of 2015

BIMLA DEVI

-PETITIONER

VS

STATE OF HARYANA & ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ravi Partap, A.A.G., Haryana,
for the petitioners in (CR No.3748 of 2015).
for respondent No.1 in (CR No.3701 of 2015).

Mr. Arun Biriwal, Advocate, and
Mr. Rajesh Sethi, Advocate,
for the petitioner (in CR No.3701 of 2015).

Mr. R.K. Malik, Sr. Advocate, with
Ms. Rimple Kadyan, Advocate,
for respondents No.4 in (CR No.3701 of 2015).
for the respondents (in CR No.3748 of 2015).

RAJ MOHAN SINGH, J. (ORAL)

Vide this common order, Civil Revision No.3748 of
2015 titled **State of Haryana and others vs Sanjay Kumar** and
Civil Revision No.3701 of 2015 titled **Bimla Devi vs State of
Haryana and others** are being disposed of.

During course of hearing, it has come on record that the trial Court vide judgment and decree dated 19.07.2005 partly decreed the suit of the plaintiff to the effect that plaintiff, defendant No.4 and minor children of defendant No.4 were entitled to all the benefits arising out of death of Tulsi Ram in terms of GPF, gratuity, GIS, leave encashment etc. in equal shares. Plaintiff was held entitled to the job on compassionate ground in place of deceased being his eldest son. Defendant No.4 and her minor children were held entitled to pension as per their shares in accordance with the rules. The shares of minor in GPF, gratuity, GIS, leave encashment etc. were ordered to be deposited in some nationalized Bank and the same were held payable on attaining majority by the minors.

Against the judgment and decree of the trial Court, two appeals were filed before the lower Appellate Court. One appeal was filed by the State of Haryana and the second appeal was filed by defendant No.4 Bimla Devi. Both the appeals were consolidated.

While parting with the common judgment, the lower Appellate Court drew the following observation:-

“As a sequel to my above discussion and observations, appeal filed by the appellants is partly accepted and partly dismissed to the

extent that the declaration given by the Id. Civil Judge qua entitlement of the respondent No.1 for appointment on compassionate grounds at the place of the deceased Tulsi Ram is set aside. However, it is made clear that if either the respondent No.1 or respondent No.2 are found fit for appointment on compassionate grounds, their claim shall be dealt with in accordance with law and in accordance with the Policy/Rules/Regulations/Scheme in vogue with the appellants at the time of death of the deceased. It is also made clear that if any monitory benefit is to be awarded in lieu of the said compassionate appointment, same shall be disbursed amongst the respondents No.1, 2 and minor children of the deceased, in equal shares. In view of the said observations made by me, I confirm the declaration given by the Id. Civil Judge that the respondents No.1, respondent No.2 and her minor children are entitled to all the death benefits of deceased Tulsi Ram. However, the declaration given by the Id. Civil Judge that respondent No.2 and her children are

entitled to pension as per their shares is also set aside thereby declaring that only the respondent No.2 shall be entitled to such pension. The declaration given by the Id. Civil Judge that the share of the minors in the above stated death benefits of the deceased shall be deposited in a nationalized Bank and shall be payable to them upon their attaining majority is also upheld. However, keeping in view the peculiar facts and circumstances of the instant case the appellants are directed to grant/release the above stated benefits to the respondents No.1, 2 and her minor children within three months from the date of passing the instant judgment. With the above stated modification, the appeal filed by the respondent No.2 is also partly allowed and partly dismissed. However, it is directed that parties shall bear their own respective costs. Decree-sheet be prepared accordingly. Lower court file be sent back alongwith a copy of this judgment and decree-sheet. A copy of the instant judgment be placed on the record of the Civil Appeal No.93-CA. Appeal file be consigned

to records.”

Against the judgment and decree of the lower Appellate Court, plaintiff Sanjay filed RSA No.1261 of 2009 which was disposed of in the preliminary hearing. The State remained unsuccessful in the review application i.e. RA-RS No.131-C of 2016 and CM No.14604-C of 2016 in RSA No.1261 of 2009, which was disposed of vide order dated 03.1.2016.

During course of arguments before this Court, all the contesting parties are *ad idem* that the State has not considered the rival claims of plaintiff viz-a-viz defendant No.4 as per policy- **“Employment to the dependents of deceased government employee under ex-gratia scheme of 1995”**. The deceased Tulsi Ram died on 01.02.2002 and the aforesaid policy was in force at the time of death of Tulsi Ram.

Respondent No.2- General Manager, Haryana Roadways, Sirsa (in CR No.3701 of 2015) shall consider the rival claims of the plaintiff and defendant No.4, keeping in view their eligibilities as per the criteria laid down in the policy and would pass a speaking order within a period of two months from the date of receipt of certified copy of this order. Thereafter, both the parties would be at liberty to avail their legal remedy in accordance with law.

Respondent No.2 shall take independent decision

without being swayed away by any of the observations made by
this Court.

Till passing of order by respondent No.2, execution
proceedings shall remain stayed.

17.08.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No