IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10668-2013 (O&M)
Date of decision: 06.04.2017

Smt.Kitabo Devi

…..Petitioner

versus

State of Haryana and others

……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ranvir S. Chauhan, Advocate for the petitioner
Mr.Naveen Sheoran, DAG Haryana
Mr.D.K.Khanna, Advocate for respondent no.2

1. Whether Reporters of Local Newspapers 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?

Kuldip Singh, J. (Oral)

Shri Ishwar Singh, late husband of the petitioner joined as a Beldar during the month of March 1986 under the erstwhile Haryana State Minor Irrigation & Tubewell Corporation (for short, 'HSMITC'). He expired on 16.7.2001. Vide application dated 25.8.2001 as per rules prevailing at that time, the petitioner applied for ex-gratia compassionate financial assistance. HSMITC was closed down by the Government w.e.f. 30.6.2002 and the existing employees were retrenched and later on adjusted in some other government entities. The defunct HSMITC released benefits of family pension and LIC to the petitioner. The claim of the petitioner initially was for grant of leave encashment, gratuity and ex-gratia financial assistance. However, it comes out that during pendency of the present writ petition, the gratuity and leave encashment were also released and the claim surviving for consideration is only for grant of ex-gratia financial assistance. It also comes out that the petitioner is getting the pension from EPF authorities.

Respondent no.2 HSMITC in the written statement has taken a stand that the Corporation was closed down on 30.7.2002. Husband of the petitioner was only a work charge employee and now no record is available with the office of the Corporation. Death of the husband of the petitioner was not denied. However, it was stated that for the first time application dated 3.7.2012 (Annexure P3) was filed before XEN, Tohana, W.S. Division, Tohana after more than ten years of the death of the husband of the petitioner. Therefore, the petition is barred by delay and latches.

In the affidavit dated 27.10.2016 filed by Shri B.P.Sharma, Personnel Officer, HSMITC, while stating that gratuity and leave encashment has been released, it was further stated that the policy of the government for compassionate appointment was never adopted by the HSMITC. It was stated that a sum of Rs.2.5 lacs to the family of the retrenched employees was granted who expired after the retrenchment but before their adjustment in the other government institutions / departments. At the time of death of the husband of the petitioner on 16.7.2001, there was no scheme for providing ex-gratia financial assistance.

I have heard learned counsel for both the parties and have also carefully perused the record.

Learned counsel for the petitioner has referred to one letter dated 1.3.1984 issued by the Chief Secretary Government of Haryana to all the Departments asking them to adopt the policy of the Government for compassionate appointment. Another letter dated 20.5.2002 addressed to all the Boards and Corporations in Haryana by the Chief Secretary is also relied upon wherein Board, Corporations and Autonomous Bodies in Haryana were requested to adopt the policy of the government for ex-gratia scheme after adopting the proper procedure or passing resolution by the competent body like Board of Directors/ Administrator. Learned counsel for the petitioner has also placed reliance upon the policy of 2003 for compassionate assistance of 2003 adopted by the Government of Harayna.

After going through the said policies, I am of the view that HSMITC was an independent Corporation. There is nothing on file to show that any of the policies were ever adopted by HSMITC. Corporation was running in losses and was closed down on 30.7.2002. All the retrenched employees were accommodated in some other departments of the Government of Haryana and in case some of the retrenched employees before their absorption in other departments died, a compensation of Rs.2.5 lacs was granted. However, case of the petitioner is at different footing. Here husband of the petitioner died in harness on 16.7.2001. Therefore, in the absence of any policy for compassionate assistance, no ex-gratia financial assistance can be allowed.

As noted above, remaining relief has already been granted to the petitioner.

The petition is accordingly stands dismissed.

06.04.2017 **(Kuldip Singh)**
gk **Judge**

Whether speaking/ reasoned: Yes
Whether Reportable: No