

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13799-2014 (O&M)
Date of decision: 22.03.2017

Virender Singh and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Naveen Kumar Jaglan, Advocate for the petitioner
Mr.Keshav Gupta, AAG Haryana
None for respondent no.4

- 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?*

Kuldeep Singh, J. (Oral)

Smt.Kamlesh Devi (now deceased)/ wife of petitioner no.1 and mother of petitioner no.2, was working as a Staff Nurse in the Department of Health Haryana at P.H.C. Naultha District Panipat. She died in harness on 11.1.2008, leaving behind three children, namely, Ruchi, Anshu and Aditya Kumar. Her daughter Anshu had studied in respondent No.4 Dental College M.M. University, Mullana, District Ambala from 2009-2013 in B.D.S. Course. She claims reimbursement of her tuition fee amounting to Rs.7,03,480/- which was deposited by petitioner as per Policy dated 22.12.1972 of the Haryana Government (Annexure P2) along with interest @ 18% per annum by setting aside and quashing order dated 9.4.2014 (Annexure P8) passed by respondent no.4 vide which reimbursement was refused.

Respondent nos.1 and 2 in the written statement have not denied

that deceased Kamlesh Devi, Staff Nurse expired on 11.1.2008. It was stated that in compliance with the order passed by this Court in CWP No.14326 of 2012 titled as Virender Kumar v. State of Haryana and others decided on 30.7.2012 (Annexure P1), an identity card valid upto 31.12.2013 was issued. It was further stated that the said instructions have been modified by the another set of instructions dated 12.2.2014 (Annexure R1). Therefore, the petitioner is not entitled to reimbursement of tuition fee.

Respondent No.3, in the short reply, has taken the stand that vide instructions dated 12.2.2014, it was decided to reimburse the fee which would be made by the department concerned where the deceased employee was working.

Respondent no.4 - Dental College M.M. University, Mullana, District Ambala has not filed any written statement.

In an affidavit dated 3/4.12.2015, filed in connected CWP No.13799 of 2014 on behalf of respondent nos.1 and 3 by Devinder Kaushik, HCS, Joint Secretary to Government Haryana, Higher Education Department, Panchkula while referring to the earlier instructions of 1972, it is stated that the claim of the petitioner is not acceptable because MM College of Dental Science & Research, Mullana, District Ambala is running under the control of deemed University i.e. M.M. University, Mullana (Ambala) and it has its own rules/ regulations/ bylaws being autonomous body and the State Government has no relation with them as neither any prior approval was granted to open college in the name of MM College of Dental Science & Research, Mullana, District Ambala nor any prior approval was granted to open the deemed University in the name of M.M. University, Mullana (Ambala).

I have heard learned counsel for the parties and have also carefully gone through the file.

The relevant instructions dated 22.12.1972 (Annexure P2) provides for ex-gratia grant and other facilities to the families of the deceased Haryana Government employees, who died while in service. It provides for reimbursement of the tuition fee for the schools, colleges upto the degree level to such children of the government schools and colleges, in terms of the circular dated 22.12.1972. It is provided that now it has been decided that the free education be made available to the children of deceased employees who are studying in recognized private schools and colleges in State of Punjab, Haryana and Chandigarh. However, it will not cover public schools and only tuition fee plus laboratory fee will be reimbursed. In Clause (i), it provides as under:-

(i) recognized private schools/ colleges in Haryana State will not charge any fee from the children of deceased Haryana Government employees on the basis of identity cards issued to them by the Chief Secretary to Government, Haryana (Welfare Cell). The heads of the Institutions will then make a claim in respect of the amount of the fee to the District Education Officers concerned who will arrange reimbursement at his own level.

It also comes out that in pursuance to the earlier CWP No.14326 of 2012, this Court has passed an order dated 30.7.2012 (Annexure P1) and in pursuance to the said order, Identity card (Annexure P4) was issued to petitioner No.2 Anshu in the year 2013. Though the other two siblings of the petitioner no.2 are getting reimbursement of tuition fee, under the instructions of 2009, but it is not the case of the petitioner nor it is case of the respondents that petitioner no.2 is getting reimbursement under the

Policy of the year 2009, vide which reimbursement to the employees of Government of Haryana, is restricted to two children. The instructions of year 2009, are not applicable to the children of the deceased employee. It also comes out that the petitioner No.1, father of the petitioner no.2, is also in government service and probably on account of his being in the government service, he claims benefit of the 2009 instructions, which are applicable to the serving government employees.

Now, the question would arise as to whether 2014 instructions will be applicable in case of the petitioner, as claimed in the written statement or not?

The instructions dated 12.2.2014 are also regarding ex-gratia grant and other facilities to the families of deceased Haryana employees, who died while in service. It provides for reimbursement of tuition fee in schools and colleges. I am of the view that the instructions of the year 2014 will not apply to the case of petitioner No.2, as she completed her BDS during the Session 2009-2013 and she had already completed her course when the instructions of the year 2014 came in force.

Learned State counsel has argued that instructions dated 22.12.1972 (Annexure P2) are applicable only to the recognized private schools and colleges and that MM University is not a recognized University and is deemed University and so recognized by UGC.

I am of the view that whatever may be the case, whether the University is recognized by the Haryana Government or by the UGC, the fact remains that it is a recognized University. The instructions dated 22.12.1972 (Annexure P2) only talk of the recognized Private Schools and Colleges and do not talk by whom it should be recognized.

It being so, the instructions dated 22.12.1972 (Annexure P2) are attracted in the case of the petitioner No.2 and accordingly petitioner no.2 is entitled to get the refund of the tuition fee plus laboratory fee.

Now, the question would arise as to how the reimbursement is to be made?

It comes out that the petitioner No.1 had filed an application dated 5.9.2013 (Annexure P5) before Principal, Dental College M.M. University Mullana, Ambala for refund of the fee. The same was declined by passing a speaking order dated 9.4.2014 (Annexure P8).

In view of what has been discussed above, the present petition is allowed. Order dated 9.4.2014 (Annexure P8) is hereby quashed. Respondent no.4 is directed to calculate the tuition fee and laboratory fee, if any and submit the claim in terms of instructions dated 22.12.1972 (Annexure P2) before the District Education Officer, Ambala, who will reimburse the same at his own level in terms of the instructions. After receipt of the said reimbursement, respondent no.4 college will refund the same to petitioner no.2. Since, it was a disputed question of law, no interest shall be payable on the said amount of reimbursement.

22.03.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No