

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20538 -2014 (O&M)
Date of decision: 30.03.2017

Kamaljit Kaur

.....Petitioner

versus

The State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.N.S.Dandiwal, Advocate for the petitioner
Mr.Nikhil Chopra, DAG Punjab
Mr.S.S.Behl, Advocate for respondent Nos.2 and 3
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?*

Kuldip Singh, J. (Oral)

Harbinder Singh, late husband of the petitioner was employed as Clerk in Punjab School Education Board since 20.9.2001 when he was unmarried. He mentioned the name of his mother Karnail Kaur @ Bhan Kaur – respondent No.4 as his nominee. Harbinder Singh married the petitioner on 7.11.2004. From the said marriage, two children, namely, Jagmeet Kaur and Harsimran Kaur were born. Harbinder Singh died in a road accident on 13.10.2013. Thereafter, it appears that the petitioner was not on good terms with her mother-in-law – respondent no.4, who was nominee for the receipt of retiral benefits of her son (husband of the petitioner). Therefore, the petitioner earlier approached this Court by filing CWP No.10811 of 2014 for release of retiral benefits of her deceased husband, in which, vide order dated 28.5.2014 (Annexure P3), this Court

directed the respondent Punjab School Education Board through Secretary to pass a speaking order. Respondent No.2 passed a speaking order dated 19.8.2014 (Annexure P4), deciding that the payment will be released as per nomination to Karnail Kaur @ Bhan Kaur – mother of the deceased. It also comes out that the petitioner had already been provided job by department on compassionate grounds.

The factual position is not disputed.

Now, the question would arise as to who is entitled to the retiral benefits of the deceased?

It comes out that the deceased left behind petitioner, two children, namely, Jagmeet Kaur and Harsimran Kaur and mother Karnail Kaur @ Bhan Kaur as class I heirs. The nomination is only for the purpose of receipt of the retiral benefits. However, it does not exclude the legal rights of class I heirs to receive the same. The gratuity is to be released in terms of Rule 6.16 of Punjab Civil Service Rules Volume II and ex-gratia is to be released as per Rule 2.7 of Punjab Civil Service Rules Volume II, which is to be released to the family and widow is given preference over the others.

However, learned counsel for the petitioner has stated that he has no objection if 1/4th share of the retiral benefits is released to Karnail Kaur @ Bhan Kaur - respondent no.4 irrespective of rules governing the release of gratuity, ex-gratia, GPF and leave encashment. GPF otherwise is to be released to all the legal heirs and so is leave encashment.

In view of the matter and the concession given by learned counsel for the petitioner, respondent nos.2 and 3 are directed to release all the retiral benefits upto extent of 1/4th share to Karnail Kaur @ Bhan Kaur

-respondent no.4 mother of the deceased and remaining 3/4th share to the petitioner, along with the statutory interest starting from the date these became due till the date of actual payment.

Petition is accordingly disposed of.

30.03.2017

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No