

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Civil Writ Petition No.19745 of 2016 (O&M)
Date of decision: 13.2.2017

Anil Jaglan

... Petitioner

Versus

Canara Bank and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Mr.Arvind Rajotia, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J. (Oral)

CM-1685-2017

CM is allowed and short reply along with documents are taken
on record.

Main case

This Court was gracious at the first motion hearing even when
none appeared for the petitioner and directed the respondents to file reply
and to produce records on the next date of hearing. The order was passed on
7.10.2016. The respondent Canara Bank has filed a detailed reply through
the present application which is allowed and the same is taken on record.

No one appears again for the petitioner. Adjournment is not found justified

when not even requested. Heard respondent on merits of the case with reply

in hand.

Mr.Arvind Rajotia, learned counsel appearing for the respondent Bank submits that this petition suffers from suppression of material facts which have been disclosed in the written statement. The petitioner and his family were granted benefit by the Bank under the policy of 2005 (Annex R-1) which entitled the family of the deceased bank employee to a sum of ₹ 7 lakhs as financial compensation for the loss of breadwinner. The amount was received by them without demur. Later, the petitioner, son of the deceased employee, staked his claim to compassionate appointment by serving a legal notice on the Bank on 24.9.2014 seeking ex gratia appointment in terms of the Bank policy (Annex R-2) which became effective from 5.8.2014. Late Raj Kumar through whom the claim is made died on 9.3.2012 and payments were made under the then prevailing 2005 policy on 27.5.2013. In the petition, it is asserted that the Bank did not respond to the legal notice. According to Mr. Rajotia this is also factually incorrect. The Bank has placed its reply to the legal notice on record with the written statement in which there is evidence and proof of acknowledgement by the petitioner.

It appears that the petitioner has resorted to sharp practice in not disclosing vital information which if incorporated in the petition may have changed the course of the case if full facts were disclosed to the Court had counsel appeared on 7.10.2016. Mr. Rajotia is right in his assertion that the petition suffers from suppression of material facts, concealment and withholding of vital facts and documents and, therefore, deserves to be dismissed. Equitable jurisdiction under Article 226 of the Constitution is not

meant to be exercised in favour of such a litigant. In any case,

compassionate appointment cannot be claimed as a matter of right.

This Court desists from imposing costs on the petitioner because neither the petitioner nor his counsel has appeared at the hearing today. The Ostrich theory will not work. Studied absence in Court is a manifestation of avoidance of risk which is not good practice since the doors of the inevitable are always open.

As a result, the petition is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

February 13, 2017
Paritosh Kumar

Whether speaking/reasoned : *Yes*
Whether reportable : *No*