101 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.28631 of 2013 (O&M)
Date of decision : February 09, 2017

Smt. Sonia .... **Petitioner**

Versus

State of Punjab and others .... **Respondents**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Bassi, Advocate for the petitioner.

Mr. R.S. Pathania, DAG, Punjab.

Mr. H.S. Ghuman, Advocate for respondent Nos.2 to 4.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

<u>KULDIP SINGH J. (ORAL)</u>

In pursuant to the directions of this Court, the necessary instructions regarding ex-gratia grant on account of the death of the employee in harness have been produced in the Court today and the same are taken on record.

In the present case, deceased Sukhwinder Singh was working as Superintendent Grade-II and was posted at Municipal Corporation, Patiala. On 06.12.2011 after attending his office, while he was going back to his home, he met with an accident at Leela Bhawan Chowk, Patiala and died at the spot.

It comes out that regarding the death of the employee in harness, the following instructions were issued by the Government of Punjab, Department of Finance on 13.10.2010, which are reproduced as under:

> "*I am directed to say that in partial modifications of Government letter No.3/23/09-3FPCC/879, dated 17-8-2009, on the subject cited above and to clarify the position regarding payment of ex-gratia grants for death of a Government employee under different circumstances, the Governor of Punjab is pleased to decide that the existing para 8 of the letter under reference, shall be substituted by the following para namely:-*
>
> *2.* ***Ex gratia payment***
>
> *(a) Where death occurs in harness or the employee is permanently disabled and rendered unfit for the further service, the ex-gratia payment shall be made at the rate of Rs.1,00,000/- (Rs. One lac only) on a uniform basis.*
>
> *(b) Where death occurs in harness due to causes attributable to service i.e., for reasons which are directly or substantially connected with the performance of official duties and is clearly relatable to performance of such duties, the payment of ex-gratia shall be equal to 24 times the revised basic pay of the employee on the date if his/her dealt with a minimum of Rs.2.00 lacs and maximum of Rs.4.00 lacs.*
>
> *(c) If death occurs in performance of duty such as dealing with riots, terrorist attack or enemy action, ex-gratia shall be paid @ 10.00 lacs on a uniform basis.*
>
> *3. The other terms and conditions for grant of ex-*

gratia shall continue to be in force.

4. These orders shall be deemed to have come into force retrospectively i.e., with effect from the 1st day of January, 2006.

5. The necessary amendments in the rules shall be made in the due course.

6. The Punjabi version of these orders shall follow in the due course."

These were in the partial modification of the Instructions dated 17.09.2009, in which a lower amount was prescribed. Now, these Instructions have been further modified vide letter dated 16.12.2011, whereby in case of accidental or homicidal death of an employee during the performance of the duty, his legal heirs will be entitled to a lump sum amount of ₹5,00,000/- as ex-gratia amount.

However, the present case is not a case of death that occurred while performing the official duties. In this case, the deceased-employee used to go to office to perform his duties and after performing the duties, he used to go back to his home. Now, the question would arise, under which Clause, the case of the petitioner is covered under the Instructions dated 13.10.2010 reproduced above?

The examination of Clause 'b' above covers the case that if the death occurs in harness due to causes attributable to service i.e. for reasons which are directly or substantially connected with the performance of official duties and is clearly relatable to performance of such duties then in such cases, the payment of ex-gratia shall be equal to 24 times the revised basic pay of the employee on the date of his/her death with a minimum of ₹2,00,000/- and maximum of ₹4,00,000/-.

Now, the question arises whether the act of the employee in going to the office and coming back from the office to home is an act, which is directly and substantially connected with the performance of the official duty or not?

One is required to go to office to perform the duties and to come back to home after attending the duties. Therefore, the act of going to office to perform the duties and to come back to home after attending the duties is an act directly and substantially connected with or falls within the purview of the performance of the official duty. Therefore, the case of the deceased-employee is covered under Clause 'b' and his legal heirs are entitled to compensation equal to 24 times the revised basic pay of an employee on the date of his/her death with the minimum of ₹2,00,000/- and maximum of ₹4,00,000/-

Accordingly, respondent Nos.2 to 4-Municipal Corporation, Patiala are ordered to pay the gratuity to the legal heirs of the deceased-employee i.e. petitioners, in the abovenoted terms. As such, the present petition is allowed. The said amount be released within two months from the date of receipt of certified copy of this order.

(KULDIP SINGH)
JUDGE

February 09, 2017
sarita

Whether speaking / reasoned Yes
Whether Reportable: Yes