

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

Decided on : 14.9.2017

202

RSA-2790-2010

STATE OF HARYANA AND OTHERS

...APPELLANTS

VS

MANO DEVI

...RESPONDENT

202 -A

CR-4017-2009

STATE OF HARYANA AND OTHERS

...PETITIONERS

VS

MANO DEVI

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. J.S.Bedi, Additional Advocate General, Haryana.

Mr. R.N.Sharma, Advocate
for the respondent in RSA-2790-2010.

Mr. Chetan Slathia, Advocate
for respondent in CR-4017-2009.

AJAY TEWARI, J.(Oral)

RSA-2790-2010

This appeal has been filed against the concurrent judgments of the
Courts below decreeing the suit filed by the respondent.

Brief facts of the case are that the husband of the respondent died
on 22.09.2002 while he was in service as an exempted Head Constable.

Immediately she applied for a job for her elder son. At that time, the policy of 1995 was applicable as per which the State had to provide the appointment as compassionate basis on the basis of seniority. In the year 2003, the scheme was changed and it was directed that there would be a quota of 5% for compassionate appointment and it was further clarified that in case any dependent was not able to get the job within a period of 3 years he would be entitled for Rs 2.5 lakh as financial assistance. It is not disputed that the son for whom the respondent had moved the application was not qualified for the post of Clerk or Constable and his case was therefore kept in the waiting list for offering appointment on Class-IV employee. The respondent stated that her younger son be considered for appointment but even he was eligible only for Class-IV appointment and his name was also retained in that list. A few months before the period of 3 years to expire the appellant wrote to the respondent that since none of her sons could be given appointment within a period of 3 years she should accept the assistance of Rs. 2.5 lakh. She however did not accept the same and instituted the instant suit.

The suit was decreed but the appeal filed by the appellant was dismissed on the ground of delay. The Additional Advocate General is not in a position to justify the delay of 620 days in filing the appeal before the lower Appellate Court but has argued that in the 6 years that this appeal has been pending in this Court there is sea change in the law. As per him, the action taken by the appellant to accommodate the children of the respondent cannot be faulted in law.

Counsel for the respondent has argued that once the appellant is

not in a position to justify the delay of 620 days in filing the first appeal this Court cannot and should not interfere in second appeal. The Additional Advocate General has countered by arguing that for the delay the respondent can be compensated with costs but in view of the decision of the Supreme Court in Union of India and Others vs. Sima Banerjee passed in Civil Appeal No. 251 of 2017 it would not be appropriate for this Court now to direct compassionate appointment after a period of 15 years of death of the employee because it is clear that the respondent and her sons are not in such a straitened circumstances that they could not survive.

In view of the entire facts, I hold that the offer of the appellant of Rs.2.5 lakh which was made was legal and direct that the appellant will pay to the respondent a sum of Rs. 2.5 lakh within a period of 3 months from date of receipt of certified copy of this order. It is made clear that if this amount is not paid within the aforesaid period the respondent would be entitled to claim interest @ 6% per annum from the date of offer till the date of payment. As regards the delay of 620 days and the subsequent prejudice to the respondent for having to prosecute this appeal also, I deem it appropriate to award her costs of Rs. 1 lakh. Ordered accordingly. Consequently, the appeal stands dismissed.

CR-4017-2009

In view of the order passed in aforesaid appeal the impugned order passed in warrant of attachment of the property of the petitioner-State is set aside and it is held that the execution petition filed by the respondent for the execution of the impugned order is not maintainable at this stage. However,

the respondent may file the execution of this order.

Since the main cases have been decided, the pending civil
miscellaneous application, if any, also stands disposed of.

14.9.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No