

RSA No. 971 of 2013
DECIDED ON: JULY 11, 2017

....PETITIONERS

P.S.E.B, PATIALA & ORS

.....RESPONDENTS

Present: Mr. PKS Phoolka, Advocate
for the petitioner.

Mr. Harsh Garg, Advocate
for the respondents.

JASPAL SINGH, J (ORAL)

Appellants have preferred the instant feeling aggrieved against the judgment and decree dated February 25, 2011 passed by learned Additional District Judge, Mansa whereby, the judgment and decree dated August 28, 2010 passed by learned Additional Civil Judge (Sr. Division), Mansa; has been upheld.

At the very outset, it has been emerged that all the retiral benefits on account of death of Gurbax Singh have been released in favour of the appellants/plaintiffs except gratuity, which has been declined by both the courts below.

While assailing the impugned judgments and decrees, it has been argued with vehemence by learned counsel for the appellants that dismissal of suit for mandatory injunction as well as appeal are nothing but mis-appreciation of evidence as well as legal proposition applicable to the facts and circumstances of the case in hand.

Undisputably, appellants are the nephews of the deceased-Gurbax Singh, who was posted as Assistant Lineman in Punjab State Electricity Board, Sub Division, Bhikhi. Unfortunately, he breathed his last on May 24, 2006. At the time of his demise he was unmarried and issue-less. His parents pre-deceased him. During his life time Gurbax Singh executed a registered Will No.203 of August 09, 2004 bequeathing his all moveable or immovable properties in favour of the appellants in equal shares. Since, they are the only legal representatives of the deceased Gurbax Singh. They approached the respondent-Board for the release of all amounts due on account of having rendered the services by Gurbax Singh-deceased during his life time. Though the amount of GPF, leave encashment etc have already been disbursed to the appellants but amount on account of gratuity has been illegally withheld by respondents. Otherwise also, appellants being legal representative of the deceased-Gurbax Singh have obtained a Succession certificate in their favour. Since they are the only legal representative of deceased-Gurbax Singh, they are entitled to receive his gratuity.

Learned counsel for the respondents has contended that as per Rule 6.16-B of the Punjab Civil Services Rules (Vol.2) Chapter VI, appellants are not entitled to receive the gratuity of the deceased, as they are the nephews of

deceased as per 'Will' and do not fall in the definition of word family, as defined therein.

This Court has given an anxious thought to the submissions made by learned counsel for the parties but does not find any legal or factual weight in the submissions made by learned counsel for the appellants.

Rule 6.16 B(a) of the Punjab Civil Services Rules (Vol.2) Chapter

VI defines the word '*family*' and it would be appropriate to reproduce the said Rule, which reads as under:

- (a) **“family”** shall include the following relatives of the officer:-
 - (i) wife or wives including judicially separated wife or wives, in the case of male officer;
 - (ii) husband including judicially separated husband, in the case of female officer;
 - (iii) sons; } (including step-children and adopted children).
 - (iv) unmarried and widowed daughters;
 - (v) brothers below the age of 18 years and unmarried and widowed sisters, including step-brothers and sisters;
 - (vi) father; } (including adopted parents in case
 - (vii) mother } of individuals whose personal law permits adoption.
 - (vii) married daughters; and
 - (viii) children of a predeceased son

A glance at the afore-said Rule makes it crystal clear that though the appellants are the nephews and legal representatives of the deceased but they do not come within the ambit of definition of 'family' as defined in the afore-said Rule. As such, this Court is of the considered view that courts below have rightly concluded that appellants are not entitled to receive the gratuity of the

deceased. Interpretation of word 'family', which has been crystalized in the afore-said Rule cannot be enlarged, so as to include legal representative, as has been projected by learned counsel for the appellants. Thus, findings recorded by learned trial Court and upheld by lower Appellate Court in this regard are absolutely in consonance with the evidence as well as settled canons of law. The same do not call for any interference by this Court.

In the light of what has been discussed above, this Court does not find any merit in the instant appeal. As such, it stands dismissed and impugned judgments and decrees passed by both the courts below are upheld.

JULY 11, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*