

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

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**FAO No.2468 of 1996 (O&M)
Date of Decision : 27.03.2018**

The Chief Engineer/RSDC and another

..... Appellants

Versus

Shri Kuldeep Raj and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ajay Pal Singh Gill, DAG, Punjab.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award of the Commissioner, Gurdaspur under the Workmen's Compensation Act, 1923 (for short the 'Act') awarding a sum of Rs.1,28,884/- for the death of Girdhari Lal, Beldar.

It transpires that originally this case was filed as a writ petition but after the mandatory deposit under Section 30 of the Act was made it was converted into an appeal by an order of a Division Bench of this Court. The registry has reported that once this case is taken as an appeal it is barred by 9 days delay.

In the circumstances of the case I condone the delay.

Learned Deputy Advocate General has argued that the Commissioner omitted in treating the deceased as on duty because as per the reply filed actually the deceased had slipped out from work at lunch time and was going to his village (which was about 4 kms. from his work place)

when he met with an accident and died. Consequently, as per the learned

Deputy Advocate General death did not occur during the course of employment. The second argument is that the son of the deceased was given compassionate appointment. Both these factors have been considered by the Commissioner and infact the Commissioner has noticed that the act of the appellants in giving a job on compassionate basis to the son of the deceased clearly shows that they accepted that he had died during his employment and consequently, disregarded the contention that he was not on duty.

Learned Deputy Advocate General is not in a position to show how this reasoning is wrong. If it was the case of the appellant that the deceased had abandoned his duty then there was no reason for them to have given compassionate appointment to his son. Having done so it has to be held that they accepted that the deceased was on duty when he died.

No fault can be found with the judgment of the Commissioner.

Appeal stands dismissed.

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

(AJAY TEWARI)
JUDGE

27.03.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No