

CWP-339-2017

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-339-2017

Date of Decision: 25.01.2019

Lali Devi

... Petitioner

vs.

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Peeush Gagneja, Advocate, for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Arjun Kundra, Advocate, for respondent No.4.

HARSIMRAN SINGH SETHI, J

In the present writ petition, the petitioner is seeking interest on the delayed release of the benefits to her after death of her son, namely, Rakesh Kumar, who was working as a Safai Sewak with the respondent-Municipal Council. Unfortunately, said Rakesh Kumar died on 28.09.2008 while he was in service. Rakesh Kumar had taken a loan from the Canara Bank and as he defaulted certain installments, his account was declared as a Non Performing Asset (NPA). After his death, the bank filed a suit for the recovery of the amount wherein the petitioner was also impleaded as one of the respondents. Rather than paying the amount for which the bank was entitled for, the suit was contested by the petitioner and ultimately the suit was decreed in the favour of the bank in the year 2011. It is noticed here that the Municipal Corporation, Abohar was the guarantor in respect of the amount which Rakesh Kumar had taken by way of personal loan amounting to Rs.1,30,000/- from the Canara Bank, Abohar. As the decree was not being satisfied, an execution application was filed and in the execution, the respondent-Municipal Corporation paid an amount of Rs.3,8,805/- to the bank to satisfy the said

decree.

The petitioner filed a writ petition bearing CWP No.17566-2013 before this Court claiming the benefits for which she became entitled for as a legal heir in respect of the services which Rakesh Kumar had rendered with Municipal Corporation. The said writ petition was disposed of by this Court directing the respondent-Municipal Council to decide the claim of the petitioner for the release of the benefit. While deciding the said claim, it was found that the petitioner was entitled for a total sum of Rs.3,81,793/-. After deducting an amount of Rs.3,08,805/- out of the said amount, the remaining amount was released in favour of the petitioner. Respondent-Corporation passed an order in terms of the direction given by this Court in aforesaid writ petition that whatever the petitioner was entitled for had already been paid after deducting an amount of Rs.3,08,805/- i.e. amount paid by the bank to satisfy the claim in respect of amount due to Rakesh Kumar and no further amount is left to be paid to the petitioner. This order is under challenge in the present writ petition.

Heard learned counsel(s) for the parties.

Learned counsel for the petitioner states that the Corporation should have immediately re-paid the amount to the bank after the death of the son of the petitioner in 2008 itself and as the amount was not paid, ultimately, the bank also claimed interest and, therefore, the petitioner should not be made liable to pay the said interest, which was only due to the fault of the Municipal Corporation for not paying the same. The said arguments is without any basis.

The amount was taken by the son of the petitioner. When the bank filed the suit, the petitioner was impleaded as a respondent. Rather than contesting the suit, the amount should have been released by the petitioner

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being the legal heirs of the said Rakesh Kumar. Once the petitioner chose to contest the suit and suffered a decree, no liability can be put upon the Municipal Council for not releasing the amount to the bank straightaway after the death of Rakesh Kumar. Further, even after the decree, the petitioner chose not to release the amount and ultimately in the execution proceedings, the Municipal Council, Abohar, released the said amount being the guarantor.

In view of the above circumstances, no fault can be found in the role played by the Municipal Council, Abohar. Whatever the petitioner became entitled for after the death of her son, the same was released out of the total entitlement by deducting the amount paid by the Municipal Council, Abohar to the bank. The bank was entitled for the interest as the petitioner chose to contest the said claim of the bank when the suit was filed. Hence, no fault can be found with the Municipal Council, Abohar in this regard.

In respect of the claim of the petitioner for interest on the amount which has been paid to her, the same has been declined by the Municipal Council. Municipal Council has stated that as the loan amount was outstanding in the name of the deceased-employee, his entitlement could not have been released to the beneficiaries i.e. legal heirs till the finalization of the said loan proceedings. Immediately after the finalization of the said proceedings, the amount was released to the petitioner for which she became entitled for. No fault can be found with this action of the Municipal Council as well.

In view of the above, no relief can be granted to the petitioner in the present case and the writ petition stands dismissed.

25.01.2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No