IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(258) **CWP-3035-2018**
Date of Decision: January 10, 2019

Sarasvati **..Petitioner**

Versus

Uttar Haryana Bijli Vitran Nigam Ltd and others **..Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Singal, Advocate, for the petitioner.

Mr. Charanjit Singh Bakhshi, Addl. A.G., Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

A short reply on behalf of the respondents filed today in the Court is taken on record. Copy of the same has been supplied to counsel for the petitioner.

In the present writ petition, the petitioner has approached this Court for the grant of ex-gratia compensation amounting to Rs.3 lac as per the Government policy dated 27.11.2014 as the husband of the petitioner Sh. Hari Om, died while being in service of the respondents.

As per the facts mentioned in the writ petition, Sh. Hari Om was working as Assistant Line Man since 01.01.2001 on daily wage basis with respondent No.3 and he died on 08.09.2016. The services of said Sh. Hari Om were terminated by the respondents in December, 2005 and an industrial dispute was raised by Sh. Hari Om challenging the said termination. Before the Industrial Tribunal-cum-Labour Court, Rohtak, the respondent-department took a plea that Sh. Hari Om is not their employee hence, no relief can be claimed by said Sh. Hari Om from the respondent-department. After considering the said plea, the Industrial Tribunal-cum-Labour Court, Rohtak passed an award on 08.05.2015 holding that Sh. Hari

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Om was the employee of the respondent-department for all intents and purposes and reinstated him in service with continuity of service alongwith 50% back wages. The said award has not been challenged and has attained finality.

Learned counsel for the petitioner states that the respondents have already paid 50% of the back wages to the petitioner as Sh. Hari Om died on 08.09.2016, hence respondents have accepted the fact that Sh. Hari Om was the employee of the respondents.

Learned counsel for the petitioner states that once Sh. Hari Om has been treated as the employee of the respondent-department, the petitioner also becomes entitle for a grant of Rs.3 lac as an ex-gratia compensation which is to be given to the dependent of the deceased employee, who are working on adhoc, daily wage or on contract basis.

Learned counsel appearing on behalf of the respondents, on the basis of a short reply filed, states that the husband of the petitioner was never the employee of the respondent-department and therefore, no amount as an ex-gratia can be claimed by the petitioner. The same plea, which was taken by the respondents before the Industrial Tribunal-cum-Labour Court, has been reiterated in the reply once again even though the same already stood negated.

I have heard learned counsel(s) for the parties.

The only reason given by the respondents to deny the petitioner the claim of ex-gratia amount of Rs.3 lac is that Sh. Hari Om was never the employee of the respondent-department and therefore, once there was no master and servant relationship, the petitioner cannot be granted Rs. 3 lac as ex-gratia compensation. It is not denied that the ex-gratia compensation is

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available to the dependents of the deceased employees who are working on adhoc, daily wage or on contract basis as well.

The plea of the respondents that Sh. Hari Om was not their employee, cannot be accepted for the reason that the same plea which was raised by the respondents before the Industrial Tribunal to deny the claim of reinstatement to Sh. Hari Om, has been rejected. It has been held by the competent Court of law that Sh. Hari Om was the employee of respondent-department for all intents and purposes and that is why the termination order was set aside and an order was passed reinstating Sh. Hari Om in service with continuity and 50% back wages. The said award has been accepted by the respondent-department and 50% back wages has already been paid. Once, the award has been accepted by the respondent-department, the same is to be treated for all intents and purposes and therefore no plea can be raised now before this Court to deny the claim that Sh. Hari Om cannot treated as an employee of respondent-department. The said plea of the respondents is rejected.

Once, Sh. Hari Om is treated as the employee of the respondent-department, the petitioner becomes entitle for the ex-gratia amount of Rs. 3 lacs as admissible under the policy dated 27.11.2014.

The writ petition is allowed. The respondents are directed to grant the said ex-gratia compensation to the petitioner by treating Sh. Hari Om their employee of the respondent-department for all intents and purposes.

(HARSIMRAN SINGH SETHI)
JUDGE

January 10, 2019
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Whether speaking/reasoned: Yes
Whether reportable: No

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