

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14313-2016

Date of decision: - 05.02.2020

Puran Chand

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Onkar Singh Batalvi, Advocate
for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

Learned counsel appearing on behalf of the petitioner states that petitioner has already been declared as a successor of his brother, namely, Sh. Om Parkash, who unfortunately died on 05.02.2011. The grievance of the petitioner in the present writ petition is that the gratuity, which was liable to be released to the the legal heirs of Sh. Om Parkash in respect of service rendered by him, has not been released and that too without any valid justification.

In the reply, the respondents have stated that the benefits like earned leave, ex-gratia, GIS and GPF have already been released by the department, but the petitioner is not entitled for the benefits of family pension and death-cum-retirement gratuity as the Audit Department has raised an objection for the grant of the family pension and DCRG, vide

their letters dated 06.01.2012 and 17.02.2012 (Annexures R-1 and R-2) respectively with the reply.

Learned counsel for the petitioner submits that the petitioner is not claiming family pension and his only surviving claim is for the release of the gratuity amount.

Learned counsel for the petitioner argues that as per letters (Annexures R-1 & R-2), which are being relied upon by the respondents, the only objection, which has been taken by the Accountant General, Punjab for the release of the gratuity is whether there is any nomination in the favour of the petitioner or not.

Learned counsel for the petitioner argues that the petitioner has already been declared the legal heir and has been granted the succession certificate by the Competent Court of Law on 14.05.2015 (Annexure P-8) and therefore, being the successor to the property of his brother Sh. Om Parkash, he is entitled for the release of the gratuity as well.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

From the perusal of the record, no rule or regulation has been cited by the respondents in their reply, according to which, the petitioner is not entitled for the release of the gratuity in respect of the service rendered by his brother Sh.Om Parkash. Once, Sh. Om Parkash was entitled for the gratuity, the same is liable to be released to his legal heirs unless and until there is any rule, which prohibits the same. No such rule has been brought to the notice of this Court in that regard.

Further, the objection, which the Accountant General, Punjab, has taken for the release of the gratuity, is that no nomination has been supplied to the office of the Accountant General, Punjab, so as to sanction the gratuity.

At the time of raising of objection in the year 2012, petitioner did not have the succession certificate as the same was issued to him by the Competent Court of Law on 14.05.2015 (Annexure P-8). Moreover, the said succession certificate has not been taken into consideration by the office of the Accountant General, Punjab so far. Hence, the present writ petition is disposed of with the direction to the respondents to consider the claim of the petitioner for the release of the gratuity in respect of the service rendered by Sh. Om Parkash in view of the succession certificate dated 14.05.2015 (P-8), by passing an appropriate speaking order, within a period of two months from the date of receipt of certified copy of this order.

In case, after passing of the speaking order, the petitioner is found entitled for the release of the gratuity, the same will also be released to him within a period of one month thereafter and in case, the claim of the petitioner is rejected, he will be at liberty to avail the appropriate remedy in that regard.

(HARSIMRAN SINGH SETHI)
JUDGE

February 05, 2020
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No