

CWP No.12322 of 2017
Date of Decision: 08.01.2020

Anju Bala

.....Petitioner

Versus

Kurukshetra University Kurukshetra

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.Mr. A.S. Virk, Advocate
for the respondent.**NIRMALJIT KAUR, J. (ORAL)**

The present writ petition has been filed for issuing a writ in the nature of Mandamus against the respondent/University to release/disburse monthly financial assistance alongwith past arrears with 18% interest admissible to the petitioner w.e.f. 29.04.2006, i.e. the date of death of her husband till fifteen years as per Haryana Ex-gratia Notification/Rules, 2006.

It is an admitted position that the petitioner had filed a civil suit for declaration and consequential relief of mandatory injunction with the following averments, which has been recorded in the decree as under:-

“It has been averred that after the death of Sanjay Kumar, Plaintiffs became legally entitled for benefits like their pension, gratuity, GPF, leave encashment, ex-gratia employment from the defendants or in alternative, plaintiffs are entitled for Rs.5.00 Lakh in lieu of service.”

It is evident that the claim of the petitioner was for ex-gratia employment or in the alternative Rs.5.00 Lakh in lieu of service. The said

civil suit was decreed in favour of the petitioner on 21.04.2009 with the

following observation:-

“It is ordered that the suit of the plaintiffs for declaration and mandatory injunction succeeds and is decreed with costs to the effect that plaintiffs are entitled for pensionary benefits including gratuity, GPF, leave encashment etc. and are also entitled for employment on compassionate ground or to Rs.5.00 Lakh in lump sum in lieu thereof as per rules. The defendants are directed to release the pensionary benefits of Sanjay Kumar as above and also to take decision regarding providing of employment on compassionate grounds or to give Rs.5.00 Lakh in lump sum in lieu thereof to the plaintiffs as per rules. The plaintiffs are awarded interest @ 6% per annum from the time of their becoming entitled to pensionary benefit of deceased Sanjay Kumar till its realization.”

It is further admitted that in pursuance to the said decree, the respondent-authority took a decision and while complying with the decree paid an amount of Rs.5.00 Lakh in lump sum with interest to the petitioner besides paying gratuity, leave encashment and provident fund.

After receiving the same, the petitioner has filed the present writ petition in the year 2017 after a gap of almost eight years of the passing of the decree on the ground that the petitioner is entitled to monthly financial assistance, which should be paid with interest w.e.f. 29.04.2006 on the basis of policy dated 01.08.2006, whereas, the civil suit was filed on 19.05.2007. The petitioner did not exercise this option in the civil suit, even though, the policy came into operation on 01.08.2006 and the petitioner had filed her civil suit subsequently. Having exercised her option to file a civil suit and having derived the benefits from the same, the petitioner cannot be allowed to seek the same relief by way of a writ petition and that too after

almost eight years.

The argument that the petitioner is ready to return Rs.5.00 Lakh and she should be allowed to exercise her option under the scheme has no merit. Filing of civil suit with a specific prayer to give employment or Rs.5.00 Lakh lump sum in itself is nothing but an exercising of an option by the petitioner for the benefits as admissible to her. Moreover, the petitioner- herself filed a civil suit and a decree was passed in her favour, which attained finality. The respondent was only required to implement the same, which they have already done. The decree was implemented forthwith and the amount was paid not only with interest but also the entire amount of gratuity, leave encashment and provident fund has been paid.

Dismissed accordingly.

08.01.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No