

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

244

CWP-16527-2020

Date of Decision :25.04.2022

Gitanjali Nagpal

...Petitioner

Versus

The Central Bank of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Aruna Sachdeva, Advocate for the petitioner.

Mr. Ravi Sharma, Advocate for the respondents.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed for quashing of order dated 21.05.2020 (Annexure P/8) passed by the respondents, by which, the prayer of the petitioner for the grant of compassionate appointment as well as ex-gratia lump sum amount keeping in view death of her husband Yogesh Nagpal, has been declined.

As per the averments made in the present petition, the husband of the petitioner was working as Bank Manager with the respondent-Central Bank of India and was posted at Jalalabad and unfortunately on 29.05.2014 while coming back from the duty, he met with an accident and died. At the time of the death of the husband of the petitioner, he was the sole bread earner of the family and had left behind his widow i.e. petitioner and two teenager children to fend for themselves. As the petitioner was distressed keeping in view the death of her husband, who was the sole bread earner of

the family, it took sometime for her to overcome the said situation and thereafter, she filed an application seeking compassionate appointment and in the alternative, the ex-gratia amount, for which, she was entitled for after the death of her husband who died in harness while in service.

Prayer of the petitioner has been declined by the respondents vide order dated 21.05.2020 (Annexure P/8), wherein it has been mentioned that at the time of the death of the husband of the petitioner on 29.05.2014, there was no policy for the grant of compassionate appointment and by the time the petitioner had filed an application seeking compassionate appointment or in the alternative ex-gratia lump sum amount, the old policy has already been superseded by new Policy dated 05.08.2014 and, therefore, as the old policy did not exist anymore, the petitioner was not found entitled for ex-gratia lump sum amount.

Upon notice of motion, respondents have filed reply, in which they have maintained the same stand.

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

With regard to the grant of compassionate appointment, learned counsel for the petitioner submits that keeping in view the fact that the policy for the grant of compassionate appointment only came into being on 05.08.2014 and as the husband of the petitioner died prior to the said date, the petitioner is not pressing the said claim.

With regard to the claim of the petitioner for the grant of ex-gratia lump sum amount, the same cannot be denied to the petitioner only on the ground that by the time the petitioner had applied, the new policy came into being on 05.08.2014. Once, a policy existed on the date of the death of

an employee for the grant of ex-gratia, it is incumbent upon the employer to consider the claim of the claimants under the said policy, even if, the same might have been superseded later on or by the date the application is moved to claim the benefits for which, the claimants were eligible under the policy, which policy existed at the time of the death of an employee.

In the present case, it is undisputed that the petitioner was entitled for grant of lump sum amount as ex-gratia under the policy which existed at the time of the death of her husband on 29.05.2014. That being so, respondents are under an obligation to consider the claim of the petitioner for the grant of said ex-gratia amount under the said policy, which existed at the time of death of the husband of the petitioner. With regard to the objection which was being taken by the respondent-Bank that petitioner was supposed to apply for the said benefit within a period of six months, the same cannot come in the way of the petitioner especially, when petitioner did not knew with regard to the time limit fixed for the grant of same keeping in view the fact that sole bread winner of the family i.e. husband of the petitioner passed away and it took some time for petitioner to stand on her own feet so as to look after her two children. In the facts and circumstances of this case, the respondents should have ignored the period of six months to grant the benefits to the petitioner as no one from the employer side informed the family about the benefits, for which, the family was entitled for after the death of the employee and also the time framed to claim the same. In the absence of the same, non-filing of an application within six months of the death of an employee cannot come in the way of the petitioner to claim the benefits.

The purpose of the benefits has to be seen and same cannot be

taken away by the technicalities of law. The benefits are given to support the bereaved family so as to come out of the distress, where sole bread winner of the family has lost his life and family took some time to come out of the distress so as to seek grant of ex-gratia benefits. In the present case application to claim the ex-gratia was not filed after inordinate delay so as to deny the benefit to the bereaved family.

Keeping in view the above, the petitioner is held entitled for the grant of ex-gratia lump sum amount and, therefore, the application filed by the petitioner for the said relief be treated within the time period and for whatever benefits, the petitioner is entitled for as an ex-gratia lump sum amount keeping in view the death of her husband while in service, the same should be released to her within a period of two months from the date of receipt of copy of this order.

Petition stands allowed.

April 25, 2022
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No