

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(290)

CM-1806-C-2022 and
CM-1807-C-2022 in/and
RSA-623-2022
Date of Decision : May 10, 2023

Harmail Singh

.. Appellant

Versus

General Manager, Punjab National Bank and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.K.S. Phoolka, Advocate, for the appellant.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-1806-C-2022

As prayed for, the application is allowed.

Delay of 06 days in filing the appeal is condoned.

CM-1807-C-2022

As prayed for, the application is allowed.

RSA-623-2022

1. Present Regular Second Appeal has been filed challenging the judgments and decrees of the Courts below by which, the suit filed by the appellant-plaintiff seeking the compassionate appointment after the death of his father, has been dismissed.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The father of the appellant-plaintiff namely Nar Singh was working in the respondent-Bank as Peon since 1987. Unfortunately, he died on 13.06.2009 after which date, a request was made by the mother of the appellant-plaintiff for the release of the benefits in respect of the service rendered by her husband Nar Singh. Apart from the service benefits, keeping in view the request made, an ex gratia amount of Rs.6 lacs was also paid by the bank to the mother of the appellant-plaintiff.

4. It may be noticed that at the time of the release of payment of ex gratia amount, it was given in writing that the family of deceased employee does not want compassionate appointment as either the ex gratia benefit or a claim for compassionate appointment could have been considered by the bank authorities.

5. After accepting a sum of Rs.6 lacs, there was a change of heart and the appellant-plaintiff claimed that the benefit of ex gratia was allowed without advising them that they could have got the compassionate appointment also, hence, the benefit of compassionate appointment was claimed by filing a civil suit.

6. The civil suit came to be dismissed by the trial Court vide judgment and decree dated 19.03.2019 by holding that as per the rules governing the aspect of compassionate appointment, family of a deceased employee can only get one of the benefit i.e. either ex gratia benefit of compassionate appointment and not both and in the present case, the ex gratia amount was already given to the mother of the appellant-plaintiff

upon an application, hence, no relief for the grant of compassionate appointment can be given.

7. Even the appeal preferred against the judgment and decree of the trial Court dated 19.03.2019 was rejected by the lower Appellate Court vide judgment and decree dated 13.10.2020. Hence the present Regular Second Appeal.

8. Learned counsel for the appellant argues that in the present case, the family was kept in dark qua the grant of compassionate appointment and the application for the release of the ex gratia amount was accepted by the bank authorities hence, the said ex gratia amount was paid to the mother of the appellant-plaintiff without informing them that they will lose their claim for compassionate appointment after the grant of ex gratia benefit, hence, under these circumstances, when the appellant-plaintiff wanted to return the ex gratia amount to seek the benefit of compassionate appointment, the same has not been accepted but without considering the said aspect, the claim has been rejected by the Courts below, which needs a reconsideration at the hands of this Court in the present Regular Second Appeal.

9. I have heard learned counsel for the appellant and have gone through the record with his able assistance.

10. There is nothing on record to prove the factum that the mother of the appellant was misled by authorities in claiming the ex gratia amount or there was any coercion upon the mother of the appellant-plaintiff to get the said ex gratia amount. The said ex gratia amount was received by the mother and it was only thereafter, the claim for compassionate appointment

was made. Under these circumstances, the allegation that the benefit of ex gratia amount was granted without informing the consequences, cannot be accepted.

11. Further, as per the scheme framed for the grant of ex gratia amount or the compassionate appointment it is to make sure that bereave family does not suffer financial loss. In the present case, the said purpose has been achieved by giving ex gratia amount to the mother. That being so, merely that there is a change of heart subsequent to the receiving of the ex gratia amount, compassionate appointment cannot be claimed.

12. Even otherwise, the compassionate appointment is a concession given to the family of a deceased employee. Concession cannot be claimed as a matter of right especially when one of the option offered to the family has already been accepted as sum of Rs.6 lacs has already been paid to them as ex gratia amount.

13. No other argument was raised.

13. Keeping in view the above, as no perversity in the findings of the Courts below could be pointed out by the learned counsel for the appellant, no interference is called by this Court in the present appeal.

14. Dismissed.

May 10, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No