

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-37499-2018 (O&M)
Date of Decision: 10.01.2023

Ashok Kumar and another
..... Petitioners

Vs.

Union of India and others
..... Respondents

CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS JUSTICE SUKHVINDER KAUR

Present: - Mr.Sukhjit Singh, Advocate, for the petitioners.

Ms.Gurmeet Kaur Gill, Sr. Panel Counsel
for UOI/respondents No.1&2.

Mr.Rajesh Gupta, Advocate, for respondents No.3 & 5.

Mr.Raminder Singh Jhoon, Advocate, for respondent No.4

M.S. RAMACHANDRA RAO, J. (ORAL)

Heard counsel for the parties.

The Writ Petitioners are the children of late Sh.Tilak Raj, who
was an employee of respondent No.3.

Respondent No.7 was the wife of the deceased, who had
remarried after the death of the earlier wife.

Sh.Tilak Raj died in harness on 07.12.2015 while working as
T/M at Ajnala in Amritsar in the office of respondent No.3.

After he died, claims were made for release of GPF, Insurance,
Leave Encashment and Gratuity by the petitioners.

But the said claims were rejected by respondent No.3 vide
Annexures P6&7 on the ground of certain discrepancies in the date of birth

of petitioner No.2. Reference is also made in Annexure P6 to a family detail submitted by the deceased on 05.03.2013 which did not include the name of petitioner No.2.

Petitioners then approached the Central Administrative Tribunal, Chandigarh by filing OA No.63/72/2018.

But the said OA was disposed of on 18.01.2018 with a direction to the respondents to decide the claim of the petitioners by passing a reasoned and speaking order in accordance with law within one month and if the applicants are held to be entitled to the above benefits, the same were directed to be released.

Thereafter, order dt.27.02.2018 (P15) was passed by respondent No.3 directing the petitioners to produce a succession certificate from the competent Court.

Petitioners again approached the Central Administrative Tribunal, Chandigarh by filing OA No.63/537/2018.

But the Tribunal dismissed the said OA on 04.05.2018 directing the petitioners to produce fresh succession certificate to settle their claims and refusing to grant any relief in the absence of production of such succession certificate by the petitioners.

Counsel for the petitioners placed reliance on Annexure P2 a nomination given on 07.12.2015 by the deceased employee clearly mentioning that both the petitioners are entitled to 50% share in the PF, Gratuity and GIS amounts. When such a nomination exists in the records of respondent No.3, counsel contends it is not necessary for the petitioners to approach Civil Court and obtain a succession certificate particularly when respondent No.7 has filed an affidavit in this Court through a counsel

specifically stating that she has no objection for payment of these amounts to the petitioners and restricting her claim to only family pension.

Counsel for respondents No.1&2 states that the said respondents are responsible for release of only gratuity, but papers regarding the claim of the petitioners for gratuity were not forwarded by respondent No.3 to respondents No.1&2 and so gratuity amount could not be released.

Counsel for respondents No.3 to 5 stated that the said respondent has released GPF and insurance in favour of the petitioners, but did not release leave encashment.

No valid reason is assigned in the reply filed by respondents No.3to5 as to why they did not forward the claims of the petitioners for release of gratuity amount as per the nomination made by the deceased employee which is available in their records as Annexure P2.

As regards the leave encashment, since respondent No.7 has released her claim and also that of her minor son in favour of the petitioners while retaining her claim only with regard to claim for family pension, we do not see any valid objection which could be taken by respondents for non release of leave encashment to the petitioners.

Needlessly, the respondents appear to have adopted a hyper-technical attitude denying prompt release of death benefits to the legal heirs of the deceased.

We fail to understand why respondents No.3 to 5 have been insisting the petitioners furnishing of succession certificate when there is valid nomination made in favour of the petitioners by deceased employee

on 07.12.2015 vide Annexure P2, which is not disputed by respondent No.7 as well.

Accordingly, this Writ Petition is allowed; order dt.04.05.2018 passed by respondent No.6 as well as order dt.27.02.2018 of the respondent no.3 are both set aside; respondent No.3 is directed to forward claimed for gratuity made by the petitioners to respondents No.1&2 within one week from the date of receipt of copy of this order; on receipt of the same, respondents No.1&2 shall process the same within four weeks and release the gratuity amount to petitioners in equal shares. The leave encashment dues of the deceased employee shall also be released to the petitioners in equal shares by respondent No.3 within four weeks. Respondent No.3 shall also pay cost of ₹25,000/- to the petitioners.

Pending application(s), if any, shall also stand disposed of.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

10.01.2023

Vivek

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No