

(1989) 07 P&H CK 0087
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3180 of 1989

Ajat Kumar and others

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 20-07-1989

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1989) 07 P&H CK 0087

Hon'ble Judges : Amrit Lal Bahri, J

Bench : Single Bench

Advocate : R.K. Chopra, for the Appellant; Anil Malhotra, for the Respondent

Final Decision : Allowed

Judgement

A.L. Bahri, J.—Ajai Kumar and others, children of Gian Inder Parkash Sharma pray in this petition filed under Articles 226 and 227 of the Constitution of India for mandamus directing the Respondents to pay Rs. 20,000/-to them under the Employees' Group Insurance Scheme as their father Gian Inder Parkash Sharma died after enforcement of the said Scheme and he had never opted out of the Scheme.

2. Gian Inder Parkash Sharma was employed as Superintendent Grade-IV in P.W.D. (Mechanical), Public Health Division, Patiala. He died on October 15, 1982 after serving the department for more than 30 years. As a matter of fact, on October 15, 1982, Gian Inder Parkash Sharma and his wife died in a road accident. The Petitioners, children of Gian Inder Parkash Sharma requested the department to give the benefit under the Scheme to them. A notice in this respect was also issued, copy of which is Annexure, P. 2. Since no action was taken by the Respondents, this writ petition was filed. In the written statement, stand taken up by the Respondents is that Gian Inder Parkash Sharma never opted for the Group Insurance Scheme and never applied for membership of the Scheme. As a matter of fact, before his death, he was not aware of the Scheme. Necessary instructions regarding the Scheme were received in their office on

October 20, 1982 whereas Gian Inder Parkash Sharma died on October 15, 1982. Thus, the children of the deceased Gian Inder Parkash Sharma were not entitled to compensation amount of the insurance Scheme. Other fact that the Scheme was enforced in the State of Punjab with effect from 2.10.1982 is not disputed. Paras 3 and 4 of the Scheme read as under:

3. Application:

The "scheme" will apply to the members of service viz all Punjab Government Employees excluding persons on deputation from other State Government/ Organisations, Public Sector Undertakings or other Autonomous Organisations locally recruited staff, casual labourers, part-time and adhoc employees etc. The "scheme" will also not apply to persons recruited under the Punjab Government after attaining the age of 50 years.

4. Membership:

4. (1) The "scheme" will be compulsory for all those employees who enter Punjab Government service after the "scheme" is notified, i.e. all those "employees" entering Punjab Government service after the 15th August, 1982 will be compulsorily covered under the "Scheme" from the date it comes into force.

4. (2) Those "employees" who are already in Punjab Government service on the date the "scheme" is notified will have an option to opt out of the "scheme". This option should be exercised in Form No. 3 by 30th September, 1982. Those employees who do not opt out of the scheme by that date will be deemed to have become members of the "scheme" from the date the "scheme" comes into force. The option, once exercised (or not exercised) will be treated as final and no further choice will be available

4. (3) After the "scheme" has come into force, a member of the Service appointed to the Service in a month other than October, shall be enrolled a member of the scheme on the next anniversary of the scheme.

4. (4) Every member of the Service enrolled as member of the "scheme" shall be informed by his appointing authority the date of his enrolment and the subscription to be deducted from his salary in form 1 under intimation to Government of Punjab, Department of Finance.

3. The purpose or introducing Group Insurance Scheme was to give the benefit to heirs of the deceased government employee whose risk of life was covered by the Insurance Scheme on payment of a very nominal amount and this scheme was compulsory for all Government employees who joined the service after enforcement of the scheme as well as those who were already in service with the exception that the government servants already in service could before a specified date that is 30th September, 1982, opt out of the scheme and such an option once exercised or not exercised was to be treated as final. Admittedly in the present case Gian Inder Parkash Sharma did not exercise his option to opt

out of the scheme. Thus, for all intents and purposes, he was a member of the service entitled to the benefits of the scheme as per para 4 referred to above.

4. The stand of the Respondents does not seem to be correct to deny relief to the Petitioners. It is immaterial that in one of the departments, papers of the scheme were received later. However, that will not make any difference as far as rights of the government employees under the scheme are concerned. Necessary formalities could be observed in due course that is nomination of persons entitled to the benefits of the scheme after the death of the government employee. Even if no nomination is made, legal heirs would be entitled to the benefits of the Scheme. As far as contributions made to the scheme are concerned under the provisions of the scheme, it is the duty of the Drawing and Disbursing Officer to deduct the same from the salary of the government employee. Even if at the initial stage, the Drawing and Disbursing Officer had not deducted the premium from the salary of the government employee, it could be done at subsequent stage with interest. In the case of Gian Inder Parkash Sharma also who died in October, premium for two months could be deducted from the salary but it cannot be said that till that is done, he would cease to be a member of the scheme.

5. For the reasons recorded above, this writ petition is allowed with no order as to costs. A writ of mandamus to issue directing the Respondents to give the benefit of the Group Insurance Scheme to the Petitioners Rs. 20,000/- on account of death of their father Gian Inder Parkash Sharma who was a government employee.