
(1994) 09 P&H CK 0089

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 5799 of 1992

Smt. Jaspal Kaur

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 06-09-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1994) 108 PLR 586

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Gurnam Singh, for the Appellant; S.K. Bhanot, DAG Punjab, S.S. Nijjar and G.S. Bajwa Advocate for the Respondents No. 4, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jhanji, J.—The present petition has been filed by widow of one Jaswant Singh who died at the hands of terrorist, for issuance of a writ of Mandamus, directing respondents No. 1 to 3 , I.e. State of Punjab, to pay ex-gratia amount of Rs. One lac in pursuance of instruction issued by the Punjab Government on 20.1.1992, with a further prayer that respondent No. 4, i.e. Punjab National Bank, with whom Jaswant Singh was an employee, be directed to pay all service benefits to the petitioners, being widow of Jaswant Singh.

2. In brief, the facts are that on 15.2.1971, Jaswant Singh, husband of the petitioner, was appointed as Clerk in the Punjab Nation Bank, Samrala (hereinafter referred to as the bank). A criminal case was registered against Jaswant Singh under Sections 467, 471, 409,420 and 477A, I.P.C He was challenged and ultimately, on 29.10.87, was convicted and sentenced to undergo imprisonment for various terms, by the Judicial Magistrate, Samrala. In appeal, the order of the Judicial Magistrate was set aside while giving benefit of doubt to Jaswant Singh, on 16.9.1991, an F.I.R was got registered by Smt. Bachan Kaur, i.e. mother of Jaswant Singh, under Sections 302/148/149, IPC, read with Sections 25,27,54 and 59 of Arms Act, and Sections 3,4 and 5 of T.A.D.A. Act. is

the said F.I.R., she stated that while her son, Balkar Singh, was working as Police Inspector at Ropar, some of the terrorists who were deadly against him, came to her residence on 16.9.1991 in a vehicle at about 8.30 P.M. and stopped their vehicle in front of their house and some of the armed persons entered into her house. One of the terrorists dressed in Khakhi uniform, directed her son, Jagroop Singh to go out of the house, and thereafter, alongwith her son, Jagroop Singh, her other three sons namely Jaswant Singh, Balwant Singh and Dilbagh Singh and also her two grandsons were shot dead. It has further been stated that the Government of Punjab, Deptt. of Personnel and Admn. Reforms has issued instructions on 20.1.1992 to all the Heads of Departments in the State of Punjab, regarding financial assistance to the members of Government employee killed by terrorists. Under instructions dated 9.7.1990, payment of special ex-gratia grant upto Rs. 50,000/- could be given to the families of deceased government employees, including Local Government employees, killed by terrorist action. Petitioner has alleged that she being widow of Jaswant Singh, approached Sub Divisional Officer (C), Samrala for release of ex-gratia grant of Rs. one lac on the ground that her husband, Jaswant Singh and her son, Jaswinder Singh, have been killed by terrorists and, thus, she be given ex-gratia grant in view of Govt. instructions issued from time to time. The Sub-Divisional Officer (C), Samrala, wrote a letter dated 24.2.92 to the Manager of the Bank, mentioning therein that the husband of the petitioner was killed by terrorists on 16.9.1991 and as such, petitioner be given ex-gratia grant Worth Rs. one lac in the light of instructions No. 18/50/90/ Rs. I. dated 20.1.1992. The General Manager of the Bank was further informed that Government has decided that in future, the ex-gratia grant would be paid by the appointing Authority. In the light of aforesaid Govt. instructions, the S.D.O. requested the Manager of the Bank to release ex-gratia amount of Rs. one lac to the petitioner within a period of 10 days. Copy of this letter has been annexed with the petition as Annexure P-4. Petitioner has further alleged that service benefits to which her husband, Jaswant Singh, was entitled to, have not been paid to her. In the petition, she has admitted that special ex-gratia grant of Rs. 50,000/- each has already been made to the families of Jaswinder Singh, Jagroop Singh, Dilbagh Singh, Sarbjit Singh and Balwant Singh, who were killed alongwith Jaswant Singh, but so far as the case of the petitioner is concerned, special ex-gratia grant of Rs. one lac has neither been paid by the State Government nor by the bank i.e. employer of petitioner's husband.

3. In answer to the petition, respondents No. i to 3 in their written statement, have stated that under instructions dated 9.7.1990, ex-gratia grant can be made only to the Government employees, including Local Govt. employees, which does not include the Punjab National Bank employees as they are not covered under the said instructions. It has further been stated that making of payment of ex-gratia grant is the responsibility of the Bank as Jaswant Singh at the relevant time was an employee of Punjab National Bank. Respondent No.4, i.e. the Bank, in its written statement has stated that instructions issued by the State Government are not applicable to the Bank as these have not been addressed to

and never meant for the Bank at any stage. Bank has further stated that for dealing with the cases of similar Mature, the bank has got its own policy based on the instructions issued by Govt. of India. Minister of Finance, vide D.O. letter dated 20.6.1986. Copy of these instructions has been annexed with the written statement as Annexure R-4/1. Annexure R-4/2 is circular letter issued by the Bank in pursuance of policy of the Government, and Annexure R-4/3 is copy of guidelines regarding compensation to bank employees killed in robberies/terrorist incidents. In these instructions, in case. of death of Executives (Scale-IV onwards), officers, clerical staff and sub-staff, compensation of Rs. 5 lacs, 3 lacs, 2 lacs and 1 lac has been provided. At the time of hearing of writ petition, Bank filed Civil Misc. application No. 7094 of 1994, in which a prayer has been made that since the entire claim of the petitioner has been made good, the writ petition may be dismissed as infructuous. In the said application, it has been stated that sum of Rs.1,44,833.05 P as salary arrears as on 23.11.1992, Rs.54,511/- as provident-fund and Rs. 45,450/- as gratuity, has been paid to the petitioner on death of her husband. Besides, this amount, Bank has also paid an amount of Rs. two lacs to the petitioner on account of insurance claim under the Punjab National Bank Employees Welfare Scheme.

4. Mr. Gurnam Singh, Advocate, for the petitioner, has contended that petitioner is entitled to another sum of Rs. one lac as ex-gratia grant. As regard the amount of Rs. two lacs which has been paid to the petitioner by the Bank, he contended that this amount has not been paid under the instructions providing for ex-gratia grant to the employees who are killed in robbery/dacoity incidents, but has been paid, because the husband of the petitioner, like any other employee, was a member of the Employees' Welfare Scheme.

5. After hearing learned counsel for the parties, I am of the view that the claim of the petitioner stands fully satisfied. Vide its communication dated 20.6.1986 addressed to the Chairman and Managing Director of the Punjab National Bank, New Delhi, the Ministry of Finance, Deptt. of Economic Affairs (Banking Division) New Delhi, informed that to motivate the bank employees, general public and the police to resist robbers/dacoits, the Government has taken a decision to implement the scheme of reward to those resisting such dacoits/robbers, and one of the guidelines issued in this regard is that in case, where a bank employee apprehends dacoits/or is injured in the attempt, a cash reward of Its. 50,000/- will be given and in case of demise of an employee as a result of an injury sustained while resisting dacoits/robbers, compensation amounting to Rs. one lac to the family of the deceased shall be paid, besides giving employment to one member of the family and meeting the education expenses of the children of the deceased, upto and inclusive of graduation. These guidelines were further modified by the Government of India, Ministry of Finance (Banking Division), vide its communication dated 14.10.1991, wherein the case of death of clerical staff, ex-gratia grant was enhanced to Rs. two lacs. It was because of these instructions that the Bank issued its own-instructions under which it took Group Personal Accident Policy from the Oriental Insurance Company Limited. Under

that policy, 7410 un-named employees working within Punjab Zone, including casual visitors, were covered. The premium on that policy was paid by the bank. A sum of Rs. two lacs which has been paid to the petitioner is on the basis of instructions which the Bank has issued pursuant to the policy of the Government. As regards the contention of counsel for the petitioner that respondents No. 1 to 3, i.e. the State, be directed to make payment of ex-gratia grant to the petitioner in addition to what has already been received from the bank, I am afraid to accept this contention because no instructions of the Government to that effect have been brought on record to show that in addition to the ex-gratia grant already received from the bank, the family of the deceased would be entitled to receive ex-gratia grant from the Government as well. In absence of such instructions, the claim of the petitioner cannot be accepted. Otherwise, too, the petitioner should remain contented with the amount of Rs. two lacs which was received by her from the bank towards ex-gratia grant, because if the instructions issued are strictly applied, I doubt that the, petitioner would be entitled to receive any amount towards the ex-gratia grant because the husband of the petitioner Was killed when he was under suspension on account of pendency of a criminal case against him and moreover, he was not killed in terrorist activity during the course of his employment.

6. For the reasons recorded above, this writ petition stands dismissed with no order as to costs.