

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**CWP(T) No. 8462 of 2008.**

**Decided on: 30.06.2010.**

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**Umar Daraj.**

**...Petitioner.**

**-Versus-**

**State of Himachal Pradesh and others.**

**...Respondent.**

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**Coram:**

**The Hon'ble Mr. Justice Rajiv Sharma, Judge.**

*Whether approved for reporting?<sup>1</sup> Yes.*

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<b>For the petitioner.</b>	:	Ms. Jyotsna Rewal Dua, Advocate.
<b>For respondents No. 1 and 2.</b>	:	Mr. R.K. Sharma, Senior Additional Advocate General with Mr. P.M. Negi, Deputy Advocate General.
<b>For respondent No. 3.</b>	:	Mr. Y.W. Chauhan, Advocate.

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**Rajiv Sharma, Judge** (Oral):

Petitioners' mother, who was working as Class-IV employee with the respondent-department, has nominated respondent No. 3 as nominee as far as G.P.F. amount is concerned. The law on the subject is that the nominee is entitled to receive the amount, but the amount so received is to be distributed according to the law. {See (i) **Smt. Sarbati Devi and another** versus **Smt. Usha Devi** (1984) 1 Supreme Court Cases 424, (ii) **Shipra Sengupta** versus **Mridul Sengupta and others** (2009 10 Supreme Court Cases 680; and (iii) **Vishin N. Khanchandani and another** versus **Vidya Lachmandas Khanchandani and another** (2000) 6 Supreme Court Cases 724}.

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<sup>1</sup> *Whether the reporters of the local papers may be allowed to see the judgment?*

**2.** However, the respondent-State has not released the amount of Leave Encashment, D.C.R.G and Exgratia. There is no justification why these amounts have not been released to the petitioners' mother. She died on 26<sup>th</sup> March, 2000 and by now, these amounts should have been released. Petitioner No. 4, who is physically challenged, has filed an application seeking compassionate appointment after the demise of her mother on 26<sup>th</sup> March, 2000. It has come in the reply that her case could not be considered due to the pendency of this writ petition.

**3.** Mr. Y.W. Chauhan, appearing on behalf of respondent No. 3 fairly submits that he has no objection if the amount of Leave Encashment, D.C.R.G and Exgratia is released in favour of the petitioners.

**4.** Ms. Jyotsna Rewal Dua, learned counsel for the petitioners submits that in fact the amount instead of being paid to all the petitioners, the same may be released and paid only to petitioner No. 4, who is physically challenged.

**5.** Accordingly, in view of the observations made hereinabove, the writ petition is disposed of with a direction to the respondents to release and pay the amount of Leave Encashment, D.C.R.G and Exgratia to petitioner No. 4 alone, within a period of six weeks from today. This amount shall carry interest @ 6% per annum. The respondents are further directed to consider the case of petitioner No. 4 for compassionate appointment, as undertaken in Para-5 of the reply filed by respondents No. 1 and 2 within a period of eight weeks from today. In normal circumstances, the Court ought to have directed the respondent No. 3 to share the

amount of G.P.F. with the petitioners, however, since he is a petty Mechanic, this Court need not direct him to share the entire amount with the petitioners. Therefore, the respondent No. 3 is directed to pay a sum of Rs.20,000/- to petitioner No. 4. This shall be done within a period of four weeks from today. No costs.

**(Rajiv Sharma)**  
**Judge**

June 30, 2010.  
(bhupender)

