

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

LPA No.30 of 2017

Date of Decision : August 31, 2017

Central Bank of India & others

...Appellants

versus

Smt. Meena Devi

...Respondent.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Acting Chief Justice.

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

For the Appellants : Mr. Ashok Sood, Advocate.

For the Respondent : Mr. Yudhbir Singh Thakur,
Advocates.

Sanjay Karol, ACJ

The short question, which arises for consideration in the present appeal, is as to whether for consideration of case of writ petitioner Meena Devi's (respondent herein) for grant of payment of ex-gratia, family pension and terminal benefits of her deceased husband are to be counted for assessing the financial condition of the family of deceased or not.

2. Certain facts are not in dispute. Late Sh. Gurdev Singh, who was working with the respondent bank, died in harness on 1.10.2007. Application so filed by his wife Smt. Meena Devi (writ petitioner) could not be favourably considered. Subsequently, with the change in policy, writ

...2...

petitioner applied for grant of ex-gratia payment, in terms of "Scheme For Payment of Ex-gratia Lump Sum Amount in Lieu of Appointment on Compassionate Grounds". The relevant portion of the said scheme, with which we are concerned, is extracted as under:-

"(7) Ex-gratia may be granted to the family of the employee/employee who has retired on medical ground due to incapacitation, in the manner and subject to the ceilings specified below, if the monthly income of the family from all sources is less than 60% of the last drawn salary (net of taxes) of the employee."

3. The only issue, which arises for consideration, as observed supra, is as to whether the family pension and payment of terminal benefits are required to be taken into consideration while determining the monthly income of the family, from all the sources, which is less than 60% of the last drawn salary of the employee.

4. We find the issue to be no longer *res integra*, for the Hon'ble Apex Court in *Canara Bank & another v. M. Mahesh Kumar*, (2015) 7 SCC 412 has held as under:-

"19. Insofar as the contention of the appellant Bank that since the respondent's family is getting family pension and also obtained the terminal benefits, in our view, is of no consequence in considering the application for compassionate appointment. Clause 3.2 of the 1993 Scheme says that in case the dependent of the deceased employee to be offered appointment is a minor, the Bank may keep the offer

...3...

of appointment open till the minor attains the age of majority. This would indicate that granting of terminal benefits is of no consequence because even if terminal benefit is given, if the applicant is a minor, the Bank would keep the appointment open till the minor attains majority.

20. In *Balbir Kaur vs Sail*, (2000) 6 SCC 493, while dealing with the application made by the widow for employment on compassionate ground applicable to the Steel Authority of India, contention raised was that since she is entitled to get the benefit under Family Benefit Scheme assuring monthly payment to the family of the deceased employee, the request for compassionate appointment cannot be acceded to. Rejecting that contention in para 13, this Court held as under :(SCC P.503)

“ 13.....But in our view this Family Benefit Scheme cannot in any way be equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the breadearner can only be absorbed by some lump sum amount being made available to the family- this is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the breadearner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief-stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of the breadearner, but that would undoubtedly bring some solace of the situation.”

5. Not only that, even this Court in *Surinder Kumar versus State of H.P. and others*, Latest HLJ 2016(HP)(DB) 113, has also taken a similar view. We are informed that Special Leave Petition assailing the same is pending consideration. We are not persuaded by such fact in setting-aside the judgment passed by learned Single Judge, moreso

...4...

in view of the law already having been settled by the Hon'ble Apex Court in *Canara Bank (supra)*.

6. Contention that the observations reproduced supra, so rendered in *Canara Bank (supra)* are obiter in nature, is not correct. We find the issue to have been squarely decided by the Court, which consistently has been the opinion, as observed in the said Report.

7. Hence, we see no reason to interfere with the well reasoned judgment, dated 17.8.2016, passed by the learned Single Judge, in CWP No.2056 of 2014, titled as *Smt.Meena Devi v. Central Bank of India and others*. The appeal is accordingly dismissed.

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

(Sanjay Karol),
Acting Chief Justice

August 31, 2017_(sd)

(Sandeep Sharma),
Judge.