
Before Jasbir Singh & Uma Nath Singh, JJ.

HARWINDER KAUR,—*Petitioner*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents*

C.W.P. NO. 4332 of 2003

10th February, 2005

Constitution of India, 1950—Art. 226—Punjab State Cooperative Financing Institutions Service (Common Cadre) Rules, 1970-71—Rl.—3—Death of husband of petitioner in harness after serving for more than 30 years—Cl. (b) of Rl. 3 entitles for payment of gratuity a maximum of 15 months salary on the death of an employee while in service—Cl. (a) entitles an employee on his retirement 20 months salary as gratuity after completion of more than 25 years of service—Respondent granting gratuity to the petitioner for 15 months salary as admissible under Cl. (b) of Rule 3—Claim for the benefit of 5 months salary as additional gratuity—All categories except the dependents of an employee who died in harness after putting in more than 25 years of service entitled to get benefit of additional gratuity—Clause (b) is liable to be quashed being discriminatory—Petition allowed.

Held, that there is no rationale behind Clause (b) of Rule 3 of the Punjab State Cooperative Financing Institutions Service (Common Cadre) Rules, 1970-71, which excludes the dependents of an employee, who died in harness after putting in more than 25 years of service from getting benefits of additional gratuity. Rather such beneficial provisions ought to be liberally construed to make it equally admissible to all categories of employees. In fact, all the five categories (a), (b), (c), (d) and (e) have been created for different situations and eventualities, but clause (b) creates a hostile discrimination despite the fact that on death of an employee, his dependents may have to face comparatively more hardships. We hereby quash rule (b) of Chapter (V) of the Punjab State Cooperative Financing Institutions Service (Common Cadre) Rules, hold the petitioner entitled to get five months' salary as additional gratuity and direct the respondents to release the amount within a period of one month.

(Para 7 and 8)

J.S. Bedi, Advocate, *for the petitioner*

Ashok Aggarwal, Addl. Advocate General, Punjab, *for respondents No. 1 & 2.*

I. S. Saggu, Advocate, *for respondent No. 3*

JUDGMENT

UMA NATH SINGH, J.

(1) By way of this writ petition, the petitioner has sought quashment of Rule 3 (Annexure-V) of the Punjab State Cooperative Financing institutions Service (Common Cadre) Rules 1970-71 to the extent of exclusion of dependents of an employee who died in harness from getting benefits of additional gratuity under clause (b) which would have accrued to the employee after completing 25 years of service. The petitioner has also sought a direction to the respondents to release five months salary as additional gratuity amounting to Rs. 1,05,005 alongwith 12% interest per annum from the date it became due till the date of disbursement.

(2) It appears that petitioner's husband joined the Punjab State Cooperative Bank as a Clerk on 30th July, 1971 and was promoted up to Branch Manager. It also appears that petitioner's husband died in harness while serving as Branch Manager in the said Bank situated at Sector 36-D, Chandigarh. It seems that on death of husband of the petitioner, she was paid gratuity on the basis of Common Cadre Rules, 1970-71 to the tune of Rs. 3,15,015 which amounted to only 15 months salary, as per his last drawn pay scale at the time of his death. It further appears that the petitioner submitted a number of representations to the respondents (including respondent No. 3), praying that her husband had served for more than 30 years and therefore, she was entitled to get 20 months salary as gratuity (15 months for initial 25 years of service and 5 months as additional gratuity for another five years of service). She also submitted that since such benefits are admissible to the employees falling under clauses (a), (c), (d) and (e), after completion of more than 25 years of service before their resignation, disability and death etc., therefore, she was also entitled to get it. However, as her aforesaid request was not acceded to, she served a legal notice on 14th December, 2002

(Annexure P/2), which also did not yield any positive result. Hence this writ petition.

(3) We have heard learned counsel for the parties and perused the record.

(4) The main submission of the learned counsel for the petitioner is that if the benefits of five months salary as additional gratuity is admissible to other classes of employees, who have completed 25 years of service, then the petitioner is also entitled to get it and to that extent clause (b) obviously creates discrimination. Thus, learned counsel has also challenged the vires of the said section and prayed for its quashment.

(5) On the other hand, learned counsel for the respondents submitted that such rules have been made for a separate class of beneficiaries being the dependents of such employees, who died in harness and hence, the same cannot be termed as arbitrary.

(6) For ready reference, relevant rules of the Punjab State Cooperative Financing Institutions Service (Common Cadre) Rules, 1970-71 are re-produced hereunder :—

- “3(a) On retirement an employee may be allowed gratuity equal to one month’s pay for each completed year of qualifying service subject to a maximum of 15 months but if an employee of the bank has put in satisfactory service of over 25 years an extra amount by way of additional gratuity @ one month’s pay for each completed year of satisfactory service beyond 25 years may be paid to the employee of the bank.
- (b) On death of an employee while in service of the bank, one month’s pay for each completed year of satisfactory service or a fraction thereof subject to a maximum of 15 months may be paid to his/her widow/widower, sons and minor and unmarried daughters.
- (c) On an employee becoming at any time during his service physically or mentally incapable as decided by competent authority approved by the Administrative Committee to continue in service prior to the age of his superannuation may be paid gratuity as in 3 (a) above.
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- (d) On resignation by an employee on reasons of health certified by a competent authority approved by the Administrative Committee he will be entitled to gratuity on the scale prescribed and provided in Rule 3(a) Supra.
- (e) In case of an employee's accidental death or becoming physically incapable of service while actually performing the duty of the bank or in the interest of the bank, he himself/she herself or his widow/her widower in case of female employee, sons and his/her minor and unmarried daughters may be allowed additional gratuity @ one month's pay for each completed year of satisfactory service subject to a maximum of 12 months pay or Rs. 5,000 whichever is more."

(7) On a careful consideration of the rival submissions and from perusal of the relevant rules, the submissions of learned counsel for the petitioner appear to carry force inasmuch as there is no rationale behind the impugned provision which excludes the dependents of an employee, who died in harness after putting in more than 25 years of service from getting benefits of additional gratuity. Rather such beneficial provisions ought to be liberally construed to make it equally admissible to all categories of employees. In fact, all the five categories (a), (b), (c), (d) and (e) have been created for different situations and eventualities, but class (b) creates a hostile discrimination despite, the fact that on death of an employee, his dependants may have to face comparatively more hardships.

(8) Hence, the writ petition is allowed. We hereby quash rule (b) of Chapter (v) of the Punjab State Cooperative Financing Institutions Service (Common Cadre) Rules, 1970-71; hold the petitioner entitled to get five months' salary as additional gratuity and direct the respondents to release the amount within a period of one month from date of receipt of a copy of this order.

R.N.R.