

Punjab-Haryana High Court

Present: Mr.Jn Gupta vs Rules 3 And 4 Of The Scheme. While ... on 10 December, 2009

CWP No.10067 of 1993

:1

In the High Court of Punjab and Haryana at Chandigarh.

Date of decision: 10.12.2009

Kamla Devi Vs. State of Haryana and others

CORAM: HON'BLE MR. JUSTICE PERMOD KOHLI

Present: Mr.JN Gupta, Advocate, for the petitioner.
Mr.RD Sharma, DAG, Haryana, for the respondents.

--

PERMOD KOHLI, J. (Oral):

I have heard the learned counsel for the parties at length. The husband of the petitioner Ram Kumar was working as a Canal Patwari in the office of respondent No.4. He died on 27.04.1987 while in service leaving behind the petitioner his widow and three minor children. It is alleged that the deceased husband of the petitioner was a member of the Group Insurance Scheme initiated by the State in accordance with the Haryana Civil Services (Group Insurance) Rules, 1985. The husband of the petitioner was also contributory to the aforesaid scheme. The petitioner claims that Rs.20,000/- is payable to her on account of the Group Insurance under the Group Insurance Scheme. It is stated that the said scheme was compulsory and all the employees were necessarily to be members of the scheme unless they exercise option not to be governed by the scheme. The option was to be exercised in the prescribed form. It is CWP No.10067 of 1993 :2 further alleged that the deceased husband of the petitioner did not exercise option as required under the law. After the death of the husband of the petitioner, the petitioner made representation claiming the amount payable under the Group Insurance Scheme. Respondent No.3, however, rejected the claim vide letter dated 10.08.1990, (Annexure P-7), stating that as per record, no contribution was made by the deceased employee. The aforesaid order is the subject matter of challenge in the present writ petition. The petitioner has further prayed for a direction to release the amount payable to her under the scheme aforesaid.

In the reply filed by the respondents, it is admitted that the amount towards contribution to the scheme was deducted from the salary of the husband of the petitioner from March 1986 to October, 1986. However, later on some members including the petitioner opted out of the scheme and after November, 1986 no deduction was made. It is stated that the amount deducted has been refunded to the petitioner on 24.08.1987 vide Bill No.1110.

Learned counsel for the petitioner has relied upon a judgment of this Court in case of Santosh Sharma Vs. State of Punjab, 1996 (2) SCT, 477. In this judgment, this Court has specifically ruled that the membership of the scheme is compulsory unless an employee opts out of the scheme. This Court has interpreted Rules 3 and 4 of the Scheme. While interpreting the rules, it has been held that an employee in government service is deemed to be CWP No.10067 of 1993 :3 contributory or a member of the scheme unless he opts out of the scheme in Form No.3 by a specified date. The respondents have referred to Annexure R-1, a list of the Canal Patwaris, who are stated to have opted out of the scheme. However, no date of the opting out from the scheme has been shown, nor the copy of Form No.3 which was required to be filled by the deceased employee opting out of the scheme has been placed on record. The contribution for some of the period has been admitted. It has also come on record that the said contribution was returned to the petitioner after the death of the deceased employee. In what manner, the said amount was returned to the petitioner has not been properly explained except referring to bill number only. Whether the amount was sent to the petitioner through any communication or letter indicating that it is the refund of the contributory amount of the scheme, nothing has been stated in this regard. Therefore, the petitioner might have received the amount as part of the retiral benefits. Unless it is shown that the amount was received by the petitioner knowing fully well that it was a refund of the contribution, respondents cannot set up as a plea against the petitioner.

In the totality of the circumstances of the case, this petition is allowed. The respondents are directed to communicate the amount of contribution payable by the deceased husband of the petitioner within a period of four weeks. The amount shall carry interest at the rate of 6 percent per annum from the date contribution is due till the death of deceased employee.. The respondents are further directed to CWP No.10067 of 1993 :4 pay/release the amount of the Insurance payable under the Group Insurance Scheme within a period of one month thereafter.

10.12.2009

BLS

(PERMOD KOHLI)

JUDGE

Note: Whether to be referred to the Reporter? NO