
(2008) 116 FLR 279 : (2007) 3 GLR 2224

Gujarat High Court

Case No: Special Civil Application No. 949 of 2007

Parmar Sanjaykumar
Ganpatlal and Another

APPELLANT

Vs

Life Insurance
Corporation of India
and Another

RESPONDENT

Date of Decision: March 28, 2007

Citation: (2008) 116 FLR 279 : (2007) 3 GLR 2224

Hon'ble Judges: H.K. Rathod, J

Bench: Single Bench

Advocate: Prakash K. Jani, for the Appellant; A.K. Clerk, for the Respondent

Final Decision: Dismissed

Judgement

H.K. Rathod, J.

Heard learned Advocate Mr. P.K. Jani for the petitioner and Mr. A.K. Clerk for the respondent-L.I.C. of India.

2. Grievance of the petitioner is that the application of the petitioner for appointment on compassionate ground has not been considered and

rejected by the respondents and based upon such grievance, petitioner has filed this petition.

3. Learned Advocate Mr. Clerk who is appearing for the respondent-Corporation has filed detailed affidavit-in-reply to this petition, inter alia

denying the contentions raised by the petitioner. Relevant Paras 4, 5 and 6 therefrom are reproduced as under:

4. I say that the petitioner No. 1 is the brother of Dineshkumar Ganpatlal Parmar who was employed by the respondent-Corporation and

petitioner No. 2 is the father of the said Shri Dineshkumar. Neither petitioner No. 1 as brother nor petitioner No. 2 as father is eligible for

compassionate appointment in the respondent-Corporation as per the L.I.C. Recruitment (of Class III and Class IV Staff) Instructions, 1993.

Instruction No. 21 which pertains to relaxation in favour of near relatives of an employee who dies while in service is reproduced and annexed

herewith and marked Annexure T. As per these instructions which are having the force of law, only spouse, son or unmarried daughter of the

employee is eligible for compassionate appointment. Therefore, the petitioners are not eligible for compassionate appointment in the respondent-

Corporation. Therefore, they cannot be granted compassionate appointment.

5. It is submitted that since the petitioners are not eligible for compassionate appointment as per the Instructions prevailing in the matter of

compassionate appointment, no relief as prayed for in the petition can be granted to the petitioners.

6. It is submitted that since the petitioners are not eligible as per the Instructions governing the subject-matter of compassionate appointment, even

assuming while not admitting that the petitioner No. 2 was dependent on the deceased or that petitioner No. 1 is the youngest son of petitioner No.

2 is not relevant or material.

4. One more, further affidavit-in-reply is also filed by the respondent-Corporation wherefrom it appears that the petitioner has been paid in all, an

amount of Rs. 17,74,765.56. These facts have been narrated by the deponent in his further affidavit-in-reply filed on behalf of the Corporation at

Paras 1 and 2, page 47 which are reproduced as under:

1. I say that Ganpatbhai Savjibhai Parmar petitioner No. 2, who is the father of the deceased was paid the terminal dues of the deceased

employee as under:

Gratuity 3,50,000-00

PLLI 4,517-00

GSLI 3,05,1464-00

Encashment of PL 1,51,848-00

Addl. Gratuity 15,246-00

GTI 2,40,000-00

Salary diff. 1,49,021-94

PF & Add. PF 62,062-00

Cash Medical 3,600-00

Total (A) 12,81,440-00

Recovery Licence fees 522-00

Net Payment A 12,80,918-94 made

as on 5-5-2005

Final payment of PF

Settled by ZO (B) 4,01,759-00

on 23-8-2005

Wage Revision @

Diff. of salary 56,18442

Diff. of PL 19,697-20

Encashment PF 16,206-00

Total (C) 92,087-62

Grand Total (A + B + C) 17,74,765-56

2. It is submitted that since the petitioners are not eligible as per the instructions covering the compassionate appointment even assuming while not

admitting that petitioner No. 2 was dependent of the deceased, the petitioner No. 2 i.e. the father of the deceased employee has been paid an

amount of Rs. 17,74,765-56. It is submitted that, therefore, the father of the deceased cannot be said to be in need of compassionate appointment

on the ground of financial condition. It is submitted that the petitioners have not disclosed the above facts before this Hon"ble Court.

5. Rejoinder to the affidavit-in-reply has been filed by the petitioner and the same is on record.

6. Recently, this aspect has been considered by the Apex Court in State Bank of India and Others Vs. Jaspal Kaur, as well as in case of State

Bank of India and Another Vs. Somvir Singh, . Relevant observations made by the Apex Court in case of State Bank of India and Another Vs.

Somvir Singh, are reproduced as under:

Held:

In our considered opinion, the High Court itself could not have undertaken any exercise to decide as to what would be the reasonable income

which would be sufficient for the family for its survival and whether it had been left in penury or without any means of livelihood. The only question

the High Court could have adverted itself is whether the decision-making process rejecting the claim of the respondent for compassionate

appointment is vitiated? Whether the order is not in conformity with the Scheme framed by the appellant-Bank? It is not even urged that the order

passed by the competent authority is not in accordance with the Scheme. It is well settled that the hardship of the dependent does not entitle one to

compassionate appointment de hors the Scheme or the statutory provisions as the case may be. The income of the family from all sources is

required to be taken into consideration according to the Scheme which the High Court altogether ignored while remitting the matter for fresh

consideration by the appellant-Bank. It is not a case where the dependents of deceased employee are left "without any means of livelihood" and

unable to make both ends meet. The High Court ought not to have disturbed the finding and the conclusion arrived at by the appellant-Bank that

the respondent was not living hand to mouth. As observed by this Court in General Manager (D and PB) and Others Vs. Kunti Tiwary and

Another, the High Court cannot dilute the criteria of "penury" to one of "not very well-to-do". The view taken by the Division Bench of the High

Court may amount to varying the existing income framed by the appellant-Bank. Such a course is impermissible in law (Para 13). For all the

aforesaid reasons, we allow the appeal filed by the appellant-Bank and set aside the order passed by the Division Bench of the High Court of

Punjab and Haryana. There shall be no order as to costs.

7. In view of the aforesaid decisions and in light of the aforesaid decisions of the Hon"ble Supreme Court of India, and considering the financial

conditions of the petitioner which is sound looking to the amounts received by petitioner from the L.I.C. of India, petitioner is not eligible for the

appointment on compassionate ground according to the Scheme of the L.I.C. of India. Therefore, according to my opinion, petitioner is not

entitled for such appointment on compassionate ground, and therefore, there is no substance in this petition and same is, therefore, dismissed.

Notice is discharged.