
Before V.K. Bali & M.L. Singhal, JJ

KULWANT KAUR,—*Petitioner*

versus

THE STATE OF HARYANA & OTHERS,—*Respondents*

C.W.P. 12661 of 1997

16th April, 1998

Constitution of India, 1950—Art. 226—Compensation—Husband of petitioner killed during riots—Govt. paying fixed amount as ex-gratia payment— Whether Govt. not liable to pay real compensation.

Held, that payment of a paltry amount of Rs. 20,000 as *ex-gratia* payment is not sufficient. The grant of compensation over & above the fixed amount of *ex-gratia* payment would depend upon the circumstances of the family of the riot victims. Keeping in view the facts of this case and in particular that petitioner, a hapless widow with three minor children, has really to feed herself and her three female children and that her deceased husband was Havaldar in Army having a reasonably good pay and facilities like free accommodation and free ration, an amount of Rs. 3,50,000 would not in any case be excessive.

(Para 7)

Rajive Bhalla, Advocate, *for the petitioners.*

Madan Dev, Advocate, *for respondent No. 1 and 3.*

Puneet Jindal, Advocate, *for respondent No. 2.*

JUDGMENT

V.K. Bali, J

(1) Smt. Kulwant Kaur wife of Havaldar Naranjan Singh who was serving in the Indian army and was lynched to death while he was travelling in Chhatisgarh Express train by dragging him out from the compartment, seeks adequate compensation by styling the only one granted to her i.e. Rs. 20,000 as wholly insignificant and illusory.

(2) Facts of the case reveal that on 31st October, 1984, Smt. Indira Gandhi, the then Prime Minister of the country lost her life following her assassination. Aftermath of the assassination was

wide spread riots in various parts of the country resulting into loss of life and property by and large of a particular community. To the misfortune of the petitioner, her husband who was serving in the Indian Army was travelling in Chhatisgarh Express train. He was dragged out from the compartment and was done to death at Rondhi Railway Station in District Faridabad. An F.I.R. bearing No. 76 dated 3rd November, 1984 pertaining to Police Station G.R.P. Faridabad was registered. Copy of the F.I.R. has been annexed with the petition as Annexure P-1. Upon the death of her husband, the petitioner received a paltry sum of Rs. 20,000 from the State as *ex-gratia* payment. Inasmuch as the payment was inadequate and insufficient, the petitioner started addressing letter to the Deputy Commissioner for enhancement of compensation. The Deputy Commissioner informed the petitioner that she has already been paid Rs. 20,000 and the Haryana Government has not formulated any fresh policy for giving further assistance. Reply to one such letter which was addressed to Deputy Commissioner by the petitioner in the year 1990 has been annexed with the petition as Annexure P-3. Before coming to this Court, the petitioner gave legal notice Annexure P-7 on 4th November, 1996 and when even the notice brought no tangible results, this petition was filed.

(3) When the matter came up for hearing before this Court on 27th February, 1998, Mr. Bhalla, learned Counsel representing the petitioner sought time enabling the petitioner to file an affidavit giving age of the deceased at the time of death as also what was his income. The matter was adjourned and in the meanwhile petitioner has filed her affidavit swearing therein that at the time of his death, husband of the petitioner was 39 years old, his date of birth being 31st March, 1945. His salary at that time was Rs. 2300 per month. Apart from his salary, the deceased and his family were entitled to free family accommodation, free ration or ration money and various other facilities. The deceased was survived by his widow i.e. petitioner and three minor daughters. Reply to this petition has been filed by the respondent-State. All that has been pleaded in the reply is that the petitioner had not given any proof regarding age and emoluments and therefore, the same are being denied for want of knowledge.

(4) While contesting the claim of the petitioner for enhancement of compensation in the written statement filed by the respondents it has been pleaded by way of Preliminary Objection that,—*vide* memos dated 22nd May, 1986 and 23rd May, 1986 the

Financial Commissioner and Secretary to Government of Haryana, Home Department, Chandigarh has issued instructions regarding payment of *ex-gratia* relief to the deceased persons affected in November 1984 disturbances. It was provided that Government of Haryana have conveyed sanction of Governor of Haryana for making the payment of *ex-gratia* grant to the persons including those killed in police firing at the rate of Rs. 20,000 to the affected persons. Since the amount of *ex-gratia* amount has already been disbursed to the legal heirs of deceased in this matter and there is no negligence on the part of the respondents, as such the present writ-petition is not maintainable. On merits in so far as the factual backdrop leading to the death of petitioner's husband is concerned, the same has not been disputed. In fact, from the reading of the reply filed on behalf of the respondent-State it is clear that the only defence projected is that the Government had decided to give Rs. 20,000 as compensation and the same having been paid to the petitioner, no case for enhancement was at all made out.

(5) We have heard the learned Counsel representing the parties and carefully examined the records of the case. We would have really gone into all aspects of the case but inasmuch as the matter is no more *res integra* and is covered by a judgment of Delhi High Court in CWP No. 1429 of 1996 titled *Smt. Bhajan Kaur vs. Delhi Administration* decided on 5th July, 1996 and we are informed that the same has since already been confirmed by the Apex Court, there is no need to give any minute details of the case. The facts of *Smt. Bhajan Kaur's case* (supra) reveal that one Narain Singh husband of petitioner in the said case lost his life on November 1, 1984 in the riots which took place after the assassination of Smt. Indira Gandhi. On the fateful day he was travelling by Bombay—Ferozepur Janta Express Train. According to F.I.R. No. 355 dated November 1, 1984, lodged at the Police Station New Delhi Railway Station around 12.30 noon the train stopped at Tughlakabad Railway Station where 300-350 villagers surrounded it. They pulled out 25/26 Sikh passengers from the train and killed them. The persons killed included Narain Singh son of Jawahar Singh, the husband of the petitioner. On October 20, 1986 after about two years of the incident, Delhi Administration paid Rs. 20,000 to the petitioner as *ex-gratia* payment. In 1996 the petitioner filed writ petition in Delhi High Court praying for suitable compensation. Her specific demand was for payment of Rs. 2 lacs as compensation.

The facts as also the law of this case and that of *Smt. Bhajan Kaur's case* (supra) are *pari materia*. The Delhi High Court in the case of petitioner *Smt. Bhajan Kaur* issued the following directions:—

“Having regard to the aforesaid discussion and also keeping in view the decisions of the Supreme Court I am of the opinion that the petitioner should have been paid at least a sum of Rs. 2 lakhs as compensation. Since the petitioner has already been paid a sum of Rs. 20,000 the respondent is directed to pay a sum of Rs. 1,00,000 to the petitioner with interest from October 1984 to the date of payment which is quantified at Rs. 1.50 Lakhs. The respondent will make the payment of Rs. 3.30 Lakhs to the petitioner within one month.”

(6) General directions as follows were also given :-

“This direction to pay enhanced compensation would be applicable to similar cases in order to secure parity and to alleviate the sufferings of the families of the victims who lost their lives during the Delhi riots of 1984. Accordingly, it is directed that the widows & families of the victims who lost their lives in the 1984 Delhi riots be paid a sum of Rs. 3.50 Lakhs (Rs. 2 Lakhs with interest quantified at Rs. 1.50 Lakhs). The payment should be made to them by the respondent after adjusting the amount, if any paid to them as *ex-gratia* grant of compensation. It will also be open to the Government of N.C.T. of Delhi and the Union of India to consider the grant of compensation over and above the aforesaid amount depending upon the circumstances of the family of the riots victims. I would also direct the State to constitute a committee to disburse the amount of compensation quantified as above to the families of those who were killed in riots after the proper identification. I order accordingly. The exercise should be completed within a period of four months. The State and the Union of India may be well advised to locate the riots whenever and wherever they occur and the persons held responsible for the same should be made. In pay compensation and the law should provide for confiscation of their properties so as to secure payment of compensation out of the assets of confiscation. In case it is found that an official or officials of the State did

not act in time or were indifferent to mob violence, they should also be required to make reparations to the victims and face disciplinary proceedings.”

(7) Keeping in view the facts of this case and in particular that petitioner, a helpless widow with three minor children has really to feed herself and her three female children and that her deceased husband was Havaldar in Army having a reasonably good pay and facilities like free accommodation and free ration an amount of Rs. 3,50,000 would not in any case be excessive. In fact it may be somewhat on lower side. We, thus, direct the Government of Haryana to make over the petitioner an amount of Rs. 3.50 Lakhs minus Rs. 20,000 already paid. It will also be open to Government of Haryana to consider the grant of compensation over and above the one we have ordered that the government should pay and in so far as an amount of Rs. 3.30 Lakhs is concerned, the same be made over to the petitioner within one month from the date the copy of this order is received by the Government.

(8) The petition stands allowed in the terms as indicated above.

S.C.K.

Before Jawahar Lal Gupta & N.C. Khichi, JJ.

HARYANA STATE CO-OPERATIVE DEVELOPMENT
FEDERATION LTD.,—Appellant

versus

RAJBIR SINGH,—Respondent

LPA 770 of 1992

18th April, 1998

Constitution of India, 1950—Art. 226—Withdrawal of resignation—Employee submitted resignation to be made effective from a future date—Resignation accepted prior to date mentioned in resignation letter—Employee sought to withdraw resignation letter—Such plea rejected—Challenge thereto—Held that request for acceptance of resignation remains inchoate till date fixed by the employee—Right of employee to withdraw resignation upheld.