

2023 SCC OnLine Del 5827

In the High Court of Delhi at New Delhi
(BEFORE SATISH CHANDRA SHARMA, C.J. AND SANJEEV NARULA, J.)

Punjab National Bank and Others ... Appellants;

Versus

Ram Murti Devi and Another ... Respondents.

LPA 633/2023, CM Appl. 47587/2023, CM Appl. 47588/2023, CM
Appl. 47589/2023 and CM Appl. 47590/2023

Decided on September 15, 2023

Advocate who appeared in this case :

Mr. Rajesh Kr. Gautam and Mr. Anant Gautam, Advocates.

The Judgment of the Court was delivered by

SATISH CHANDRA SHARMA, C.J. (Oral):— The Appellant herein is a Public Sector Bank; and the Respondents are the next of kin of one Shri Anoop Singh, an erstwhile employee of the Appellant who unfortunately passed away prematurely whilst in service.

2. The Appellant before this Court has preferred the instant Letter Patent Appeal (“L.P.A”) against a judgment dated 23.05.2023 passed by the Ld. Single Judge in W.P. (C) 17180 of 2005 (the “Writ Petition”) whereby the Ld. Single Judge allowed the Writ Petition and directed the Appellant to *inter alia* make an *ex-gratia* monetary compensation in lieu of compassionate appointment for the Respondent No. 2; and has granted the Respondents the benefit of interest at the rate of 6% (six per cent) per annum with effect from the date of filing the Writ Petition i.e., 30.08.2005 up until the release of the *ex-gratia* monetary compensation in favor of the Respondent (the “Impugned Judgment”).

3. The facts of the case reveal that Shri Anoop Singh joined the services of the Appellant as an ‘armed guard’ on 16.01.1986. On 14.01.2004, he passed away while in service. Thereafter, on 03.02.2004, the Respondents submitted an application to the Appellant seeking appointment of Respondent No. 2 on compassionate grounds. Similarly, another application was made in April 2004.

4. Pertinently, the Appellant vide a HRD Circular No. 235 dated 07.01.2005 issued a scheme for payment of *ex - gratia* compensation in lieu of compassionate appointments with retrospective effect to all pending application as on 29.10.2004 (the “Ex-Gratia Scheme”).

5. Nonetheless, the Respondents made similar applications seeking appointment on compassionate grounds on (i) 17.03.2005; and (ii)

24.03.2005. In response, *vide* letter(s) dated (i) 30.03.2005; (ii) 26.04.2005; (iii) 05.05.2005; and (iv) 24.09.2005, the Appellant informed the Respondents that they should instead submit an application under the Ex-Gratia Scheme.

6. Aggrieved, the Respondents filed the Writ Petition praying for a direction to the Appellant to consider their application(s) for appointment on compassionate grounds per the terms of HRD Circular No. 9/1997 dated 20/03.1997 i.e., an erstwhile scheme whereunder appointment on compassionate grounds was permitted (the "Compassionate Appointment Scheme").

7. *Vide* an order dated 25.04.2008, the Writ Petition was dismissed in default. Thereafter, an application for recall of the said order was preferred (the "Recall Application"). *Vide* an order dated 27.07.2009, the Recall Application was allowed, and the Writ Petition was restored to its original number.

8. In this context, the Ld. Single Judge allowed the Writ Petition by way of the Impugned Judgment. The Ld. Single Judge observed *inter alia* that the Respondents herein would not be entitled to compassionate appointment under the Compassionate Appointment Scheme as the same had been replaced with the Ex-Gratia Scheme during the pendency of the Respondent's applications. Pertinently, the Ld. Single observed that there is no vested right for persons to seek appointment on compassionate grounds. Thus, the Ld. Single Judge observed that the Respondents were entitled to the *ex-gratia* compensation under the Ex-Gratia Scheme. Further, in consideration of the significant lapse of time since the demise of the Late Shri Anoop Singh, the Ld. Single Judge directed the Appellant to also pay interest at a rate of 6% (six per cent) per annum with effect from the date of filing the Writ Petition i.e., 30.08.2005 up until the release of the *ex-gratia* compensation in favor of the Respondent.

9. In the present L.P.A, the singular issue that forms the fulcrum of dispute is the direction by the Ld. Single Judge awarding interest on *ex-gratia* compensation to the Respondent. In this regard, the Ld. Counsel for the Appellant submits that Ld. Single Judge did not consider that the Respondents failed to make an appropriate application under the Ex-Gratia Scheme during the relevant period. He contends that disbursement of payments under the Ex-Gratia Scheme is only made after the receipt of an appropriate application under the said scheme.

10. It is therefore contended that in the absence of an appropriate application, the delay in payment of *ex-gratia* compensation could not be attributed to the Appellant and hence, the Appellant ought not to have been made liable to pay any interest arising out of such delay.

11. The Ld. Counsel for the Appellant has also brought the attention of this Court to the letter(s) issued by the Appellant to the Respondents

informing them to make an appropriate application under the Ex-Gratia Scheme. Furthermore, it has been submitted that the interest component in the present case extends to INR 6,48,000 (Indian Rupees Six Lakh Forty-Eight Thousand) thereby exceeding the principal *ex-gratia* compensation of approximately INR 6,00,000 (Indian Rupees Six Lakh).

12. The present matter is being disposed of at the motion hearing stage itself. The Ld. Counsel for the Appellant, on instructions, states that he has no reservations in this regard.

13. The Ld. Single Judge has awarded interest at a rate of 6% (six per cent) per annum with effect from the date of filing the Writ Petition up until the release of the *ex-gratia* compensation in favor of the Respondents keeping in view the totality of circumstances and the long wait that the Respondents have had to endure prior to receiving the compensation.

14. The issue involved in the present L.P.A. has been recently considered by a coordinate bench of this Hon'ble Court in *Union of India v. Manorma Devi*, 2022 SCC OnLine Del 674 wherein this Court in Paragraph(s) 18-19; and 24-25 has observed as under:

"18. The fact that there is no provision for payment of interest cannot be the reason for denying interest. We would have appreciated this submission, if there was a specific provision in the circular relied upon by the petitioners, to the effect, that no interest would be paid on the amount, which was to be paid as compensation qua employees, who died in harness. Interest is paid to a person when she/he is, deprived of use of money. It offsets the impact of inflation which diminishes the value of money. In such situations, unless there is a bar, interest should be paid in the ordinary course. The following observations of the Supreme Court in Irrigation Deptt., Govt. of Orissa v. G.C. Roy, (1992) 1 SCC 508, articulated this rationale, while examining the power of the arbitrator to award pendent lite interest:

"43. The question still remains whether arbitrator has the power to award interest pendente lite, and if so on what principle. We must reiterate that we are dealing with the situation where the agreement does not provide for grant of such interest nor does it prohibit such grant. In other words, we are dealing with a case where the agreement is silent as to award of interest. On a conspectus of aforementioned decisions, the following principles emerge:

(i) A person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest,

compensation or damages. This basic consideration is as valid for the period the dispute is pending before the arbitrator as it is for the period prior to the arbitrator entering upon the reference. This is the principle of Section 34, Civil Procedure Code and there is no reason or principle to hold otherwise in the case of arbitrator.....

(iii).....The arbitrator must also act and make his award in accordance with the general law of the land and the agreement.....

(iv) Over the years, the English and Indian courts have acted on the assumption that where the agreement does not prohibit and a party to the reference makes a claim for interest, the arbitrator must have the power to award interest pendente lite. Thawardas [Seth Thawardas Pherumal v. Union of India, (1955) 2 SCR 48 : AIR 1955 SC 468] has not been followed in the later decisions of this Court. It has been explained and distinguished on the basis that in that case there was no claim for interest but only a claim for unliquidated damages. It has been said repeatedly that observations in the said judgment were not intended to lay down any such absolute or universal rule as they appear to, on first impression. Until Jena case, [(1988) 1 SCC 418 : (1988) 1 SCR 253] almost all the courts in the country had upheld the power of the arbitrator to award interest pendente lite. Continuity and certainty is a highly desirable feature of law.

(v) Interest pendente lite is not a matter of substantive law, like interest for the period anterior to reference (pre-reference period). For doing complete justice between the parties, such power has always been inferred.

44. Having regard to the above consideration, we think that the following is the correct principle which should be followed in this behalf:

Where the agreement between the parties does not prohibit grant of interest and where a party claims interest and that dispute (along with the claim for principal amount or independently) is referred to the arbitrator, he shall have the power to award interest pendente lite. This is for the reason that in such a case it must be presumed that interest was an implied term of the agreement between the parties and therefore when the parties refer all their disputes — or refer the dispute as to interest as such — to the arbitrator, he shall have the power to award interest. This does not mean that in every case the arbitrator should necessarily award interest pendente lite. It is a matter within his discretion to be exercised in the light of all the

facts and circumstances of the case, keeping the ends of justice in view."

19. Also see the observations made in *Pickett (Administratrix of the Estate of Ralph Henry Pickett Decd.) v. British Rail Engineering Ltd., [1978] 3 WLR 955.*

".....My Lords, I believe the reasoning of the Court of Appeal to be unsound on this point. It is based upon a fallacy; and is inconsistent with the statute.

First, the fallacy. It is assumed that because the award of damages made at trial is greater, in monetary terms, than it would have been, had damages been assessed at date of service of writ, the award is greater in terms of real value. There is here a complete non sequitur. The cash awarded is more, because the value of cash, i.e. its purchasing power, has diminished. In theory the higher award at trial has the same purchasing power as the lower award which would have been made at the date of the service of the writ : in truth, of course, judicial awards of damages follow, but rarely keep pace with, inflation so that in all probability the sum awarded at trial is less, in terms of real value, than would have been awarded at the earlier date. In theory, therefore, and to some extent in practice, inflation is taken care of by increasing the number of money units in the award so that the real value of the loss is met. The loss, for which interest is given, is quite distinct, and not covered by this increase. It is the loss which is suffered by being kept out of money to which one is entitled.

Secondly, the statute. Section 22, Administration of Justice Act, 1969, amending section 3, Law Reform (Miscellaneous Provision) Act, 1934, provides that the court shall (my emphasis) exercise its power to award interest on damages, or on such part of the damages as the court considers appropriate, "unless the court is satisfied that there are special reasons why no interest should be given in respect of those damages." Such is the general rule laid down by the statute, which does, however, confer upon the court a discretion as to the period for which interest is given and also permits differing rates. Nothing can be clearer than the duty placed upon the court to give interest in the absence of special reasons for giving none. Inflation is an economic and financial condition of general application in our society. Its impact upon this plaintiff has been neither more nor less than upon everybody else : there is nothing special about it."

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24. *It is not in dispute that the respondent's husband died on 26.02.1998, and, therefore, right to ex-gratia compensation accrued in her favour, in terms of the parent circular dated 11.09.1998.*

25. *That being the position, the respondent is, in our view, entitled to the interest for the delay caused by the petitioners in payment of ex-gratia compensation."*

(Emphasis Supplied)

15. This Court unreservedly echoes the view taken by the Court in *Manorma Devi* (Supra). The Respondents herein are people from a humble background who have been put through trying times on account of prolonged litigation and futile formalities that have greatly hampered the Respondents ability to realize the *ex-gratia* monetary compensation. Accordingly, this Court is of the considered opinion that the Ld. Single Judge has rightly awarded interest in addition to the *ex-gratia* monetary compensation accruing in favor of the Respondents herein.

16. Therefore, in consideration of the totality of circumstances of this present case, this Court finds no reason to interfere with the Impugned Judgment. Accordingly, the present L.P.A. stands dismissed.

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