

**SUPREME COURT OF INDIA**

Govind Prakash Verma

Vs.

Life Insurance Corporation of India

C.A.No.452 of 2004

(Brijesh Kumar and Arun Kumar, JJ.)

23.01.2004

**ORDER**

**Brijesh Kumar, J.**

1. Leave granted.

2. This appeal is preferred against the judgment and order passed by the Patna High Court, refusing the relief of compassionate appointment to the appellant on the death of his father during the course of employment. The learned Single Judge mentioned in the order, the factors which were taken into account by the Senior Divisional Manager refusing the appointment, that the widow of the deceased gets monthly pension of Rs 4735, apart from the terminal benefits which were paid to her, namely, gratuity, PF, additional gratuity, etc. According to the conclusions of the officer, as quoted in the judgment of the learned Single Judge, it is sufficient for the maintenance of the family.

3. It appears that during the course of the proceedings the learned Single Judge had required that some officer of LIC may make enquiries into certain aspects of the matter, which we find enumerated in the order dated 25-2-2002. The learned Single Judge observed as follows: "It is, therefore, essential to further investigate as to whether the members of the family engaged in gainful employment were also supporting the family of the deceased employee or he was living separately and independently and the other members of the family of the deceased did not receive his help or sustenance from his gainful employment. Unless this aspect of the matter is also looked into, the provision of sub-rule (iii) of Rule 212 will lose its significance and as noted above it will not fully serve the purpose of the scheme. In the case in hand though it was admitted that the elder brother of the petitioner was gainfully employed in cultivation, it was also stated that he was living separately from the other family members."

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4. In pursuance of the said order an officer of LIC appears to have made some enquiry and submitted his report dated 27-4-2002. In the report, he repeats about the family pension which is being paid to the widow of the deceased and the amount which was received as terminal benefits admissible under the Rules. Thereafter, it is mentioned in the report that the elder brother of the complainant is engaged as a painter but he did not disclose his income. Earlier, it is mentioned that he had said that he was engaged in cultivation. The officer inferred that the employment of the elder son of the deceased was being concealed. He also observed that at some places the statement of the elder brother was contradictory. Ultimately, the officer deputed to make enquiries, comes to the conclusion: "Because of the contradictory nature of statements made by the elder son as also the facts mentioned above the appointment of Govind Prakash Verma on compassionate ground is not maintainable." It is a brief report containing the above conclusions. There is no report in regard to other factors which the learned Single Judge had indicated in his order, upon which also he was required to submit his report. There is specific mention of the case of the appellant in the order saying that the elder brother was engaged in cultivation and was living separately. But the officer who seems to have enquired into the matter, in pursuance of the order of the learned Single Judge, totally omitted to furnish any report on the points, indicated above, as required by the High Court. They seem to be obsessed by the fact that the widow of the deceased is getting family pension and some good amount was paid to them as terminal benefits. The learned Single Judge while passing the final order takes those factors into account, namely, the family pension and other amounts which had been received as terminal benefits of the service and it is said that since the authorities have arrived at certain findings it would not be appropriate to go into those matters, thus he accepted the same and dismissed the petition.

5. In writ appeal, the Division Bench found that no infirmity was shown in the order passed by the learned Single Judge, hence, the writ appeal was dismissed.

6. In our view, it was wholly irrelevant for the departmental authorities and the learned Single Judge to take into consideration the amount which was being paid as family pension to the widow of the deceased (which amount, according to the appellant, has now been reduced to half) and other amounts paid on account of terminal benefits under the Rules. The scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of the deceased employee as benefits of service which one gets on the death of the employee. Therefore, compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the Rules. So far as the question of gainful employment of the elder brother is concerned, we find that it had been given out that he has been engaged in cultivation. We hardly find that it could be considered as gainful employment if the family owns a piece of land and one of the members of the family cultivates the field. This statement is said to have been contradicted when it is said that the elder brother had stated that he works as a painter. This would not necessarily be a contradiction much less leading to the inference drawn that he was gainfully employed somewhere as a painter. He might be working in his field and might casually be getting work

as painter also. Nothing has been indicated in the enquiry report as to where he was employed as a regular painter. The other aspects, on which the officer was required to make enquiries, have been conveniently omitted and not a whisper is found in the report submitted by the officer. In the above circumstances, in our view, the orders passed by the High Court are not sustainable. The respondents have wrongly refused compassionate appointment to the appellant. The inference of gainful employment of the elder brother could not be acted upon. The terminal benefits received by the widow and the family pension could not be taken into account.

7. In the result, the appeal is allowed and the orders passed by the High Court are set aside. The respondents on consideration of the request of the appellant for compassionate appointment, shall pass appropriate order in the light of the observations made above, within a period of three months from today.