

STATE OF PUNJAB AND ORS.

v.

KULDIP SINGH

JUNE 21, 2007

[DR. ARIJIT PASAYAT AND D.K. JAIN, JJ.]

*Code of Criminal Procedure, 1973; S. 482.*

*Notification—Special ex-gratia relief to victim of terrorist action by Security Forces—Relief and medical expenses granted to respondent-victim—Filing of petition u/s 482 Cr.P.C. demanding compensation—High Court directing the State to pay to petitioner a further amount of Rs. 80,000/—On appeal, held, in terms of the notification, limited special ex-gratia relief being granted to victim of terrorist action by the Security Forces—Thus, victim cannot make any claim higher than the limit so fixed in terms of the notification—Besides claim of compensation u/s 482 is misconceived—Further, the victim was also given employment by the State Government—However, medical expenses paid is low compared to normal expenses—Accordingly, the State Government is directed to pay a sum of Rs. 17,000/- towards medical expenses in addition to the sum already paid as ex-gratia in terms of the notification.*

**Respondent was hurt during the ambush in terrorist chase on 7.7.1993 when he was visiting a relative in the night. The police started shooting several bullets hitting his right forearm which was blown off. He was taken to the hospital where the right arm below elbow was amputated. Thereafter he had to undergo another surgery as he had developed abscess. He was paid a special ex-gratia relief of Rs. 20,000/- in terms of the notification providing for ex-gratia relief to the victim of terrorist action by the Security Forces acting in civil power and also a sum of Rs.3, 378/- as medical expenses. After about 10 years, he had filed a petition under Section 482 Cr.P.C. demanding compensation of rupee 3 lacs. The High Court allowed the petition by awarding to the petitioner a further amount of Rs, 80,000/-. Hence the present appeal.**

**Appellant-State contended that since the amount paid was fixed in terms of the notification, the High Court 's direction for payment is clearly unsustainable.**

**A** Respondent-victim submitted that the amount was given as a purely palliative measure and, therefore, there was no restriction on the High Court's power to award compensation; and that the amount awarded for medical expenses is petty.

**B** Partly allowing the appeals, the Court

**C** HELD: 1. The notification dated 18.1.1991 issued by the State Government makes the position clear that it was paid as "special ex-gratia grant". The limit was also fixed. Therefore, the question of the responding making any claim in terms of the notification for a higher amount does not arise. Additionally, the respondent was not claiming compensation in a writ petition but under Section 482 Cr.P.C., and such a claim is misconceived.

**D** Additionally, the claim was made 10 years after the amount fixed by the Government had been paid to him. It is also not in dispute that the respondent has been appointed as a Chowkidar in a government school. Therefore, strictly speaking, in terms of the notification nothing further is to be paid to the respondent. But the medical expenses paid are certainly low compared to the normal expenses which appear to have been spent for the operations and treatment. Accordingly, the quantum at Rs. 20,000/- is fixed. The same is in addition to the fixed sum already paid by way of ex-gratia compensation under the notification. Though there was a belated claim, in view of the peculiar circumstances of the case, the belated approach is not treated to be fatal. Accordingly, an additional sum of Rs. 17,000/- shall be paid by the State Government to the respondent within two months. [Para 7] [1140-D-G]

**E** CRIMINAL APPELLATE JURISDICTION : Civil Appeal No. 1295 of 2002.

**F** From the Judgment & Order dated 10.05.2002 of the High Court of Punjab and Haryana at Chandigarh in Criminal Misc. No. 25991-M of 2001.

Gangandeep Sharma and Ajay Pal for the Appellants.

**G** Collin Gonsalves, Sr. Adv., Jyoti Mendiratta for the Respondent.

The Judgment of the Court was delivered by

**H** DR. ARIJIT PASAYAT, J. 1. The State of Punjab and its functionaries question the correctness of the order passed by a learned Single Judge of the Punjab and Haryana High Court. On a petition under Section 482 of the Code

of Criminal Procedure, 1973 (in short 'Cr.P.C.'). the High Court by the impugned order directed the appellant-State to pay a sum of Rs.80,000/- over and above what was paid to him as ex-gratia payment. It was held that the same would be in final settlement of claim of the respondent. A

2. Background facts in a nutshell are as follows: B

In July 1991 State of Punjab was in the grab of terrorism at its height. Respondent suffered bullet injuries and his hand above the forearm had to be amputated. On 18.1.1991 the Secretary to Government of Punjab, Department of Relief and Resettlement, Chandigarh, wrote to Deputy Commissioners and Sub-Divisional Officers (C) in the State regarding revised scales of relief for the persons adversely affected as a result of terrorists action by security forces acting in civil power. C

3. It was provided therein as follows:

"The question of grant of special ex-gratia relief to those who sustain permanent disability less than 100% in terrorists violence/security forces acting in aid of civil power was under active consideration of this Department and it has been decided that in the event of innocent civilian sustaining disability less than 100% in terrorist violence by security forces acting in aid of civil power, he/she may be paid special ex-gratia grant at the following scales: D E

i. in the event of disability upto 25% Rs.5,000/-

ii. in the event of disability from 25% to 50% Rs.10,000.

In the event of disability above 50% and less than 100% Rs.20,000-." F

4. On 7.7.1991 during the ambush in terrorist chase the respondent was hurt. He was visiting a relative in the night. The police asked him to stop. According to the police forces he did not pay any heed to stop the vehicle. In any event, police started shooting, several bullets hit his right forearm which was immediately blown off and severed from upper arm. He was taken to the hospital where the right arm below elbow was amputated. Thereafter also the respondent had to undergo another surgery at PGI, Chandigarh as he had developed abscess. He was paid Rs.20,000/- in terms of the notification and a sum of Rs.3,378/- as medical expenses. After about 10 years, the petition under Section 482 Cr.P.C. was filed demanding compensation of rupees 3 lacs. The claim was resisted on several grounds including delayed approach and H

A the non-applicability of Section 482 Cr.P.C. The High Court passed the following order:

Reply filed, the same is taken on record.

B The State of Punjab will pay to the petitioner a further amount of Rs.80,000/- within a period of three months. This will be final settlement of the claim of the petitioner..

The petition is disposed of accordingly.”

C 5. In support of the appeal, learned counsel for the State and its functionaries submitted that the amount paid was fixed in terms of the notification and, therefore, the High Court’s direction for payment is clearly unsustainable.

D 6. In response, learned counsel for the respondent submitted that the amount was given as a purely palliative measure and, therefore, there was no restriction on the High Court’s power to award compensation. It was also submitted that the amount awarded for medical expenses is petty.

E 7. A bare look at the notification dated 18.1.1991 makes the position clear that it was paid as “special ex-gratia grant”. The limit was also fixed. Therefore, the question of the respondent making any claim in terms of the notification for a higher amount does not arise. Additionally, the respondent was not claiming compensation in a writ petition but under Section 482 Cr.P.C., and such a claim is also misconceived. Additionally, the claim was made 10 years after the amount fixed by the Government had been paid to him. It is also not in dispute that the respondent has been appointed as a Chowkidar in a government school. Therefore, strictly speaking, in terms of the notification nothing further is to be paid to the respondent. But we find that medical expenses paid are certainly low compared to the normal expenses which appear to have been spent for the operations and treatment. We fix the quantum at Rs.20,000/-. The same is in addition to the fixed sum already paid by way of ex-gratia compensation under the notification. Though there was a belated claim, in view of the peculiar circumstances of the case we have not treated the belated approach to be fatal. An additional sum of Rs.17,000/- shall be paid to the respondent within two months. The appeal is allowed to the aforesaid extent.

H S.K.S.

Appeal partly allowed.