

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.11358 OF 2009 (O&M)

Date of Decision: **25.03.2015**

Jaswant Kaur

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: - Mr.H.S.Sethi, Advocate
for the petitioner.

Mr.Sharad Kumar Yadav, DAG, Haryana.

SATISH KUMAR MITTAL, J. (Oral) :

Petitioner Jaswant Kaur is mother of late Constable Tanjit Singh, who was working in Haryana Police. He was appointed on the said post on 19.06.2003. He died on 06.04.2006. He was unmarried. After his death, the petitioner applied for family pension under Punjab Civil Services (Second amendment) Rules, 2004 (hereinafter for short 'the Rules of 2004') as well as for lump-sum ex-gratia grant under Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2005 (hereinafter for short 'the Rules of 2005'). Both the benefits were denied to her, which she has challenged in the present petition.

We have heard the Learned counsel for the parties and have gone through the record of the case.

As far as the claim with regard to family pension is concerned, in the written statement, a stand has been taken that the petitioner is not eligible to the said benefit being mother of the deceased, because her family income exceeds Rs.2550/-. In this context, relevant provisions of Rules of 2004 are as under:-

“(v) The pension is admissible:-

- (a) in the case of widow/widower up to the date of death or death or remarriage, whichever is earlier;
- (b) in the case of son/unmarried daughter including widowed/ divorced daughter until he/she attains the age of 25 years; and
- (c) in the case of parents who were wholly dependent on the Government employee when he/she was alive, up to the date of death provided the deceased employee had left behind neither a widow nor a child.

Provided further that the son/unmarried daughter including widowed/ divorced daughter shall become ineligible for pension if he or she starts earning livelihood.

The income criteria in respect of parents and widowed/divorced daughter will be that their earning is not more than Rs.2550/- per month. Provided also that parents and widowed/divorced daughter shall produce an annual certificate to the effect that their earning is not more than Rs.2550/- per month. The upper ceiling of family pension will be 30% of basic pay of the deceased employees, subject to a minimum of Rs.1913/- per month.”

On the previous date, after hearing the Learned counsel for the parties, the case was adjourned with a direction to the petitioner to file an affidavit that on the date of death of her son, her family income including that of her husband was less than Rs.2550/-.

Today, Learned counsel for the petitioner very fairly stated that the petitioner could not file the affidavit, as directed, because her family income was more than the prescribed limit of Rs.2550/-.

In view of the above undisputed fact as also in the light of the rule, quoted above, the petitioner was not entitled to family pension on the death of her unmarried son, because she was not dependent upon his income.

Coming to the second claim for lump-sum ex-gratia grant, the respondent- State has declined the same to the petitioner on the ground that as per the Rules of 2005, a `deceased government

employee' means a government employee appointed on regular basis and one not working on daily wages, casual, apprentice, work charged, adhoc, contractual or re-employment basis and who has served the government for at least three years. Since the deceased Constable (son of the petitioner) had less than three years of service at the time of his death, the petitioner was not entitled to the benefit of lump-sum ex-gratia grant.

We have perused the Rules of 2004 and 2005 and find that the case of the petitioner is not covered under the said Rules and, thus, she is not entitled either to the family pension or the lump-sum ex-gratia grant. Further as the Rules of 2005 only grant an ex-gratia amount by way of Compassionate Assistance to dependents of Deceased Government Employees for providing much needed relief to the dependants of deceased Government employees, there is no merit in the contention of the Ld. Counsel for the petitioner that restricting the benefit thereunder only to regular employees who have served for at least three years is arbitrary.

Hence, we find no merit in the petition, the same is dismissed.

(SATISH KUMAR MITTAL)
JUDGE

March 25, 2015

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(HARINDER SINGH SIDHU)
JUDGE