

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 15304 of 2013

Date of Decision : September 14, 2015

Reena Devi Petitioner

Vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Parveen Gupta, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

The present is a widow's petition, who, on the death of her husband, claims financial assistance from the respondent State of Haryana under the Haryana Compassionate Assistance to the dependents of Government Employees Rules, 2006 (hereinafter referred to as – 2006 Rules).

Shorn of the unnecessary details, the facts, which are borne out

from the record of the case and which have emerged from the arguments raised at the bar are that the petitioner's husband Late Shri Ram Niwas, after going through the regular selection process conducted by the Haryana Staff Selection Commission (hereinafter referred to as – the Commission), through appointment letter dated 10.02.2012 (Annexure P-1), was appointed as a Driver (Heavy Transport Vehicle) on contract/daily wages basis. After going through a medical examination, as required under the terms of his appointment, he joined the services of the respondents on 22.02.2012. Unfortunately, he expired in harness on 21.03.2013. His death, spiralled his family in financial constraints, which led to the application by the petitioner – his widow, for the grant of financial relief under the 2006 Rules. The application filed by her was rejected on the basis of Memo dated 20.07.2011 issued by the Chief Secretary to Government of Haryana to the Director General, State Transport, Haryana, wherein it was stipulated that the financial assistance under the 2006 Rules was to be granted only to the regular employees.

In support of his case, counsel for the petitioner has relied upon a decision of this Court in **C. W. P. No. 5593 of 2011 – Kelo Devi vs. State of Haryana and others**, decided on **07.02.2013**, wherein, after setting aside Memo dated 20.07.2011, the petitioner therein, who was identically placed as the petitioner, was held entitled to the grant of ex-gratia assistance under the 2006 Rules, by holding as under :-

“14. The appointment letter dated 21.6.2008 in respect of the husband of the petitioner has been placed on record at Annexure P1. Undoubtedly, such appointment letter has been captioned as appointment as Heavy Vehicle Driver, Class 'B' on contractual/daily wage basis. A further perusal of such appointment letter would reveal that the husband of the petitioner was appointed on a consolidated salary of ₹ 3,000/- per month and against a temporary post. As per condition No.2 of such letter of appointment, the husband of the petitioner was obligated to serve a one month's notice or salary in lieu thereof in the eventuality of his choosing to resign from the post. The husband of the petitioner had also been called upon to obtain a Medical Fitness Certificate from the Chief Medical Officer concerned as required under Rule 3.1 of the Punjab Civil Service Rules, Volume-I, applicable to the Haryana State. It was further stated that such appointment could be governed by the Haryana Service Rules, 1995 governing the post of driver. The admitted position of fact is that prior to joining the post of driver, the husband of the petitioner was medically examined and the requisite Medical

Certificate of Fitness on first entry into Government service as per Rule 3.1 of the Haryana Civil Service Rules had been issued by the competent Medical Officer/Civil Surgeon, Jind, Annexure P3.

15. The categorical averments made in the petition as regards the posts of Drivers having been duly advertised and the husband of the petitioner having been duly selected and appointed in pursuance to a regular selection process have not been rebutted in the written statement filed on behalf of the State.

16. Upon the petitioner having submitted a representation for grant of financial assistance on the death of her husband, apparently such claim was processed and a clarification in that regard was sought by the General Manager, Haryana Roadways, Jind from the Director General, State Transport, Haryana vide letter dated 16.11.2010, appended as Annexure R2 along with the written statement. Such document would be a clincher in the present case. A perusal of the same would reveal that the husband of the petitioner had been selected and appointed to the post of heavy vehicle driver/bus driver in pursuance to a process of selection

conducted by the Haryana Staff Selection Commission. As such, for all intents and purposes, the appointment of the husband of the petitioner would have to be construed to have been effected on a regular basis even though against a temporary post. It is only on account of the operation of the statutory Rules that the language 'contractual/daily wage' has been implied in the appointment letter. Such language cannot work to the detriment of the present petitioner insofar as her claim for grant of ex-gratia assistance under the 2006 Rules is concerned. The service rendered by the late husband of the petitioner would certainly fall within the scope and ambit of the expression 'temporary service' under the Family Pension Scheme, 1964 which, in turn, would render the petitioner to be eligible for the grant of financial assistance under the 2006 Rules.

17. Even otherwise, the 2006 Rules have been promulgated with a laudable object i.e. to provide assistance to the family of the deceased Government servant who dies in harness. Such provisions are in the nature of a beneficial provision and are to be given a wider meaning while interpreting the same, rather than a restricted one which

would negate the very object of such provisions. The observations of the Hon'ble Supreme Court in the case of Bombay Anand Bhavan Restaurant v. The Deputy Director, ESI Corporation and Anr., 2009(4) SCT 421 would be most relevant in this behalf which are in the following terms:

“The Employees State Insurance Act is a social security legislation and the cannons of interpreting a social legislation is different from the cannons of interpretation of taxation law. The courts must not countenance any subterfuge which would defeat the provisions of social legislation and the courts must even, if necessary, strain the language of the Act in order to achieve the purpose which the legislature had in placing this legislation on the statute book. The Act, therefore, must receive a liberal construction so as to promote its objects. This Court, in the case of ESI Corporation, Hyderabad v. Jayalakshmi

Cotton and Oil Products (P) Ltd., (1980) Lab IC 1078 has observed that the ESI Act is a social security legislation and was enacted to ameliorate the various risks and contingencies which the employees face while working in an establishment or factory. It is thus intended to promote the general welfare of the workers and, as such, is to be liberally interpreted.”

18. *For the reasons recorded above, the memo dated 20.7.2011, Annexure P8, is set aside. The petitioner is held to be entitled for the grant of ex-gratia assistance under the 2006 Rules in terms of taking the service rendered by the late husband of the petitioner i.e. with effect from 26.6.2008 till 5.9.2010 to be 'temporary service'. Consequently, the petitioner shall be released the admissible financial assistance as per the 2006 Rules within a period of one month from the date of receipt of a certified copy of this order.”*

Having gone through the judgment rendered in **Kelo Devi** (*supra*), I find that it fully covers the case of the petitioner in her favour.

In view of the above, the present writ petition is allowed. The

petitioner is held entitled to ex-gratia assistance under the 2006 Rules, on account of the service rendered by her late husband. The admissible financial assistance, as per the 2006 Rules, be released to the petitioner within a period of one month from the date of receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

September 14, 2015

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