

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Letters Patent Appeal No. 1606 of 2014

Date of Decision: 28.01.2015

Dharambir s/o Late Sh. Bihari Lal

.....APPELLANT

VERSUS

State of Haryana and others

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

PRESENT: Mr. Aditya Yadav, Advocate,
for the appellant.

Mr. Amar Vivek, Additional Advocate General, Haryana,
for the respondents.

AUGUSTINE GEORGE MASIH, J

1. This appeal is directed against the judgment dated 03.09.2014 passed by the learned Single Judge vide which the claim of the appellant for appointment on compassionate grounds under the Haryana Compassionate Financial Assistance to the Dependents of Deceased Government Employees Rules, 2003 (hereinafter referred to as '2003 Rules') stands rejected on the ground that his elder brother, namely, Devender Kumar was offered appointment on the post of Constable in the year 2005, which offer has not been accepted by him. The claim of the dependents of the deceased under the 2003 Rules having been considered and offer of appointment issued, the claim stood decided. The benefit under the 2003

Rules having been exhausted qua the deceased Inspector Bihari Lal, the subsequent claim of the appellant for appointment under the 2003 Rules was not sustainable. The claim of ex-gratia lump-sum benefit, which was projected through the representation of the mother of the appellant being after a considerable delay, could also not be granted.

2. In the present appeal, counsel for the appellant confined and limited his prayer only to payment of lump-sum ex-gratia benefit under the 2003 Rules as amended vide Haryana Compassionate Assistance to the Dependents of Deceased Government Employees (Amendment) Rules, 2004 (hereinafter referred to as 2004 Rules) on which basis notice of motion was issued.

3. Counsel for the appellant has submitted that the impugned order in the writ petition dated 06.11.2012 passed by the Director General of Police, Haryana, rejecting the claim of the mother of the appellant, namely, Smt. Sushila Devi wd/o Late Sh. Bihari Lal for grant of ex-gratia lump-sum payment in the place of service to her son has been rejected without assigning any reason. He, therefore, contends that the impugned order to this extent cannot sustain and deserves to be set aside.

4. Counsel for the respondents, on the other hand, contends that the claim of the mother of the appellant has been duly considered vide the impugned order and it has been mentioned that since her elder son Sh. Devender Kumar, has been offered appointment on the post of Constable vide order dated 17.02.2005 but he had not joined the post of Constable and instead submitted

his willingness to join on the post of Sub-Inspector. But as the post of Sub-Inspector was not available within three years from the date of death of Inspector Bihari Lal, the claim stood exhausted and the application has rightly been rejected for the grant of lump-sum ex-gratia payment.

5. We have considered the submissions made by the counsel for the parties and have gone through the records of the case.

6. A perusal of 2003 and 2004 Rules would show that these Rules were framed to help the family of the deceased Government employees who died in harness in tiding over a situation where they have lost the breadwinner. Two modes are given therein for this purpose i.e. (i) Ex-gratia appointment on compassionate grounds to the members of the family, who were completely dependent on the deceased employee, who died in harness and (ii) Ex-gratia compassionate financial assistance amounting to Rs. 2.5 lacs. If a dependent of the deceased Government employee is ineligible or unable to get ex-gratia appointment, the dependent would be entitled to the benefit of the lump-sum ex-gratia payment. There are certain conditions incorporated therein which have to be fulfilled by the Dependents of the deceased Government employees, on fulfillment of which, they would be entitled to the grant of lump-sum ex-gratia payment.

7. In the present case, admittedly, the dependents of the deceased have not been able to take the benefit of appointment under the ex-gratia scheme and, therefore, could have opted for grant

of ex-gratia lump-sum payment. This is permissible as under Rule 4 (2) and Rule 6 (1) of the 2003 Rules, which state that the dependents of the deceased employees could exercise the option of change of benefit under the 2003 Rules.

8. A perusal of the order dated 06.11.2012 (Annexure P-8) passed on the application submitted by Smt. Sushila Devi, mother of the appellant, for grant of ex-gratia lump-sum payment on failure of her son getting ex-gratia appointment does not indicate any ground or reason for rejection of this claim and, therefore, the said order to this extent cannot sustain and deserves to be set aside.

9. In view of the above, the present appeal is partly allowed. The impugned order in the writ petition dated 06.11.2012 with regard to rejecting the application of Smt. Sushila Devi for grant of ex-gratia benefit under the 2003 Rules is set aside.

10. A direction is issued to the Director General of Police, Haryana, to consider the claim of Smt. Sushila Devi wd/o Late Inspector Bihari Lal for grant of ex-gratia lump-sum payment under the 2003 Rules and pass a well-reasoned speaking order within a period of eight weeks' from the date of receipt of copy of this order.

(S.J.VAZIFDAR)

(AUGUSTINE GEORGE MASIH)

ACTING CHIEF JUSTICE

JUDGE

January 28, 2015

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