

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.370 of 2015 (O&M)
Date of Decision: March 09, 2015

The State of Haryana and others

.....Appellants

versus

Sharwan Kumar and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE NARESH KUMAR SANGHI.

Present:Mr.R.D.Sharma, Deputy AG, Haryana,
for the appellants.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

This letters patent appeal impugns the order dated 19.02.2014 whereby learned Single Judge has directed the appellant-State to pay ex-gratia financial assistance of Rs.5.0 lacs to respondent Nos.1 to 4 who are husband, two daughters and a son of deceased-Smt.Saroj Kumari. She was working as JBT Teacher in the Education Department and unfortunately died while in service, on 17.07.2006.

The solitary objection taken by the appellant-State before the learned Single Judge was that on the date of death of the deceased-employee, i.e., on 17.07.2006, Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005 (for short, '2005 Rules') were in force and as per Rule 8 of those Rules, the respondents were ineligible to seek any ex-gratia financial

assistance as the first respondent is also in the service of Haryana School Education Board. On the other hand, the respondents relied upon the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short, '2006 Rules') which repealed the 2005 Rules and came into force vide notification dated 01.08.2006.

In view of Rule 8 of 2005 Rules, it appears that the respondents would have been ineligible to seek the ex-gratia financial assistance as their monthly income was more than Rs.6,000/- per month and husband of the deceased-employee was also in government service. However, in the 2006 Rules which came into force on 01.08.2006, the eligibility conditions like those contained in Rule 8 of 2005 Rules, were omitted and do not find mention in the 2006 Rules. Further, Rule 8 of 2006 Rules (as reproduced by the learned Single Judge), repealing the 2005 Rules further says that the family in the pending cases may give an option to opt for lump-sum ex-gratia grant under the 2003 or 2005 Rules, as the case may be.

In the instant case, Smt.Saroj Kumari unfortunately passed away on 17.07.2006. The new Rules came into force a few days thereafter, i.e., on 01.08.2006. The ex-gratia claim of the respondents thus has to be treated as 'pending', for even if they would have applied on the date of death of the employee, it was impossible to scrutinize and settle their claim before 01.08.2006.

Since no ineligibility under 2006 Rules has been pointed out in the written statement or before the learned Single Judge, we are of the considered view that no interference in the impugned order is called for.

That apart, the deceased-employee has left behind her two daughters and one son who admittedly were dependent on her as well and none of them was either in service or had any independent source of livelihood.

Dismissed.

[SURYA KANT]
JUDGE

March 09, 2015
Mohinder

[NARESH KUMAR SANGHI]
JUDGE

CM No.719 of 2015 in
LPA No.370 of 2015

State of Haryana and others vs. Sharwan Kumar and others

Present: Mr.R.D.Sharma, DAG, Haryana,
for the applicant-appellant.

Since we have decided the main appeal on merits,
no separate order is required to be passed on the application
for condonation of delay.

[SURYA KANT]
JUDGE

March 09, 2015
Mohinder

[NARESH KUMAR SANGHI]
JUDGE