

RSA No.4292 of 2015 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.4292 of 2015 (O&M)

Date of Decision: December 05, 2015

The Inspector General of Police & others

...Appellants

Versus

Smt. Sarika

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sidharth Sanwaria, DAG, Haryana and
Mr. Anil Kumar Chahal, DAG, Haryana,
for the applicants.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.10364-C of 2015

Prayer in the application is for condonation of delay of
133 days in filing the appeal.

The reasons assigned for the delay in filing the appeal is
the process through which the matter has travelled through various
departments/officials till the final decision was taken to file the appeal
and further the period taken in preparing the appeal and filing the
same. The delay has reasonably been explained in filing the appeal.

Present application is allowed as the same is supported
by the affidavit of the Superintendent of Police, Railways, Haryana,
Ambala. Delay of 133 days in filing the appeal stands condoned.

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Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Senior Division), Kurukshetra, dated 30.07.2014, whereby, the suit for declaration to the effect that the respondent-plaintiff who is widow of late Constable Babbar Singh, who died in harness, is entitled to the benefit under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006 (hereinafter referred to as 'the 2006 Rules') and for the consequential relief of mandatory injunction directing the defendants to release the benefit as per the declaration, stands decreed, appeal against which preferred by the appellant-defendants has been dismissed by the Additional District Judge, Kurukshetra, on 14.01.2015.

It is the contention of the learned counsel for the appellants that the entitlement of the respondent-plaintiff is not made out in the light of the fact that on the date of death of her husband i.e. 12.12.2004, the Haryana Compassionate Assistance to the Dependent of the Deceased Government Employees Rules, 2003 (hereinafter referred to as 'the 2003 Rules') were in force and as per the said Rules, she was not entitled to the claim as according to which, 3 years of regular service was mandated. He further contends that as per the Full Bench judgment of this Court in CWP No.4303 of 2009, titled as 'Krishna Kumari Vs. State of Haryana & others', decided on 20.04.2012, the benefit given to the respondent-

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plaintiff cannot be granted. He, thus, contends that the judgments and decree passed by the Courts below cannot sustain and deserve to be set aside.

This contention of the learned counsel for the appellant cannot be accepted in the light of the fact that the application for grant of benefit under the Scheme as has been framed by the Government of Haryana was under consideration when the 2006 Rules came into force. As per the said Rules, the claim of the dependents of the deceased employees which were pending at the time of invoking of the said Rules i.e. on 01.08.2006, these Rules were made applicable to such pending claims. In the case in hand, on 01.08.2006, admittedly, the claim of the respondent-plaintiff was pending consideration with the Government and since the said claim had not been decided and the 2006 Rules came into effect, her claim was to be considered under the said Rules. It could not be disputed by the learned counsel for the State that the claim of the respondent-plaintiff is covered under the 2006 Rules. The claim, thus, has rightly been granted by the Courts below.

The Full Bench judgment of this Court in *Krishna Kumari's* case (supra) will not be applicable to the case in hand as the said situation would not be prevalent in the present case because the 2006 Rules itself are carving out an exception for those where the claims are still pending and have not been decided. The judgments and decree passed by the Courts below, thus, cannot be

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said to be not in accordance with the law. It may also be added here that the claim of the respondent-plaintiff is squarely covered by the law laid down by this Court in **Neeraj Yadav & another Vs. State of Haryana & others, 2010 (8) SLR 522** and **Anu Rani Vs. State of Haryana 2013 (8) SLR 296.**

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record which do not call for any interference of this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

CM No.10365-C of 2015

In view of the order passed in the main appeal, the present application for stay of the operation of the impugned judgments, has become infructuous.

Disposed of as such.

December 05, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**