

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13618 of 2009

Date of Decision:22.11.2016

Madhu Sharma

...Petitioner

Vs.

The State of Haryana & others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present:- None for the petitioner.

Mr. J.S. Bedi, Addl, A.G.Haryana.

RAJIV NARAIN RAINA, J.

Receipt of family pension on account of death of bread-winner in harness would not bar right to payment of financial assistance in terms of the ex gratia policies of the State of Haryana codified by rules which came into force firstly in 2003, then by modification in 2005 and thereafter on August 1, 2006 the third known as the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 repealing the previous rules. Only when right of dependent wife to payment of salary on death of husband-government employee leads to recurring financial assistance in shape of full salary would family pension be denied till the date of superannuation is reached, assuming the late husband had lived and accordingly is adjustable from salary paid and payable monthly. The petitioner has no case for compassionate appointment as the basic norms are found missing and that prayer is declined. It is, however, entertained for financial assistance.

Undoubtedly, this matter is covered by judgment rendered by me in CWP 12717 of 2009, Saroj & another v. State of Haryana & others

decided on 07.11.2016 and will receive similar relief. The reasoning contained in that judgment would apply to this case. As a result, this petition is allowed. The impugned orders dated 10.09.2008 (Annex P-5) and 20.04.2009 (Annex P-7) are set aside. The petitioner is held entitled to grant of monthly ex gratia financial assistance to the exclusion of family pension which are two independent rights the the exclusion of the other flowing from the event of the death of the government employee. Therefore, the Government may follow the Rules with respect to family pension which can be denied during period of payment of salary as per scheme and the Government can keep right to family pension in abeyance till the end of the period prescribed under the 2006 Rules with right to revival thereafter.

To claim this benefit, the petitioner would have to exercise her option, which she will be allowed to, and help in completing the necessary formalities in the department as required under the Rules. She may do so immediately and thereafter the department will determine the amount and provide the same to the petitioner regularly, on expiry of two months with effect from the due date with arrears adjusted suitably with the family pension, if already paid. Since, no one appears for the petitioner despite notice in the cause list in to be taken-up matters in this bunch of cases involving ex gratia appointment/financial assistance and therefore, the Registry will send a copy of this order to the petitioner at the address mentioned in the memo of parties.

(RAJIV NARAIN RAINA)
JUDGE

22.11.2016
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