

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7057 of 2006

Date of Decision:- 20.05.2016

Santosh Devi

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. R.K. Malik, Senior Advocate
with Ms. Rimple Kadyan, Advocate
for the petitioner.**

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioner is seeking directions for quashing of the impugned order dated 16.03.2006 (Annexure P-5) and directions to the respondents to grant her the Compassionate Assistance according to the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003.

The husband of the petitioner late Sh. Amrit Singh was appointed as driver on regular basis and he joined his duties on 15.12.2004. He was medically examined by the doctor before joining the services and he was declared fit for the service as per medical certificate (Annexure P-1).

While performing his duties on 08.02.2005, he died due to natural death

living behind his widow Smt. Santosh Devi and three minor children. The application of the petitioner for grant of financial assistance has been declined, vide order dated 23.06.2005 (Annexure P-3) on the ground that the petitioner is not entitled for the benefits according to policy decision dated 01.08.2006 (Annexure P-7).

The stand taken by the respondents in the written statement is that as per the latest ex-gratia policy dated 18.11.2005 (Annexure R-1) for employment to family member the minimum service should be three years whereas the deceased had served only for one month and eighteen days service.

As per provision of Rule 4 of the Family Pension Scheme, 1964, the employee should have completed a minimum period of one year of continuous service without break for grant of family pension. This aspect has been considered by this Court in case Neeraj Yadav and another Vs. State of Haryana and others, 2010(8) SLR 522 whereby it has been held that if the appointment of an employee is made after medical examination and found fit by the competent authority, then the condition of one year continuous service to make him eligible for family pension would not apply. Rule 4 of the Family Pension Scheme, 1964 reads as under:-

“(i) The family pension is admissible in case of death while in service or after retirement on or after the 1st July, 1964, if at the time of death, the retired officer was in receipt of a compensation, invalid retiring or superannuation pension. The Family Pension will not be admissible in case of death after retirement if the retired employee at the time of death was in receipt of gratuity only. In case of death while in service a Government employee should have completed a minimum period of one year of continuous service without break.”

Hence, as per the exception carved out in the above-said rules if

a person is medically examined by the Medical authority, then his family

would be entitled to family pension even if he not completed one year of service.

A Division Bench of this Court in cases Smt. Savitri Devi V. State of Haryana and others, 1996(2) SCT 809 and Sharmila Devi V. Uttar Haryana Bijli Vitran Nigam Limited, 2002(4) SCT 178, had taken a consistent view that if an employee has been appointed after being medically examined, then his family would be entitled to family pension before completing of one year of service.

Applying the ratio of above-said judgments to the facts of the present case, the present writ petition is allowed and directions to the respondents-State to pay the family pension to the petitioner along with 9% interest from the date it became due till the payment is being made.

May 20, 2016
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(RITU BAHRI)
JUDGE