

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13462 of 2011

Date of decision: 12.12.2016

Smt. Balbir Kaur

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. KL Dhingra, Advocate,
for the petitioner.

Mr. J.S. Bedi, Addl.AG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

The petitioner's husband died on July 23, 2005. She was granted financial assistance under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006, which came into effect from August 1, 2006. While she was being paid her monthly salary regularly, it was discontinued after 1½ years on the plea that PPO/GPO has been issued in her favour and because of the instructions of the Government, and therefore the petitioner no longer had a right to continued payment of monthly salary which her late husband earned. She was intimated this proposal to suddenly withdraw the benefit against which she has come to Court. The payment was withdrawn in 2008 and the present petition has been filed in 2011 from where Mr. J.S. Bedi for the respondent State argues that the petition suffers from delay and laches and she has acquiesced in the impugned order and succumbed to it for three years disentitling her to recover her right. Not only was the benefit of monthly financial assistance under the 2006 Rules withdrawn but family

pension was not paid. If the petitioner was denied either of these valuable benefits then it does not lie in the mouth of the State to plead delay and laches in defence which in any case is a hyper technical argument when valuable rights of the widow are involved. In Smt. Saroj & anr. v. State of Haryana & ors. (CWP No.12717 of 2009) decided on November 7, 2016, this Court has taken the view that the instructions cannot take away rights under the 2006 Rules on the specious plea that PPO and GPO were released and therefore, the right dies. This matter is indeed covered by *Smt. Saroj's case* on the point. The argument based on delay and laches is noticed and rejected to avoid injustice.

In view of the above, this petition is allowed. The impugned action in depriving the petitioner of monthly salary in terms of the financial assistance scheme devised the 2006 Rules is set aside. The right is restored from the date of death of the husband. Since no family pension has been paid, therefore, the complication of adjustment of the amounts against monthly financial assistance does not arise. The arrears of salary be calculated and paid to the petitioner from the date of withdrawal and paid within 2 months from the date of receipt of a certified copy of the order either from the petitioner or from the Court, whichever is earlier. The amounts determined will earn 6% interest on the arrears.

(RAJIV NARAIN RAINA)
JUDGE

12.12.2016
monika

Whether speaking/reasoned *Yes*

Whether reportable *No*