

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 15530 of 2010

Date of decision: 2.12.2016

Satvinder Kaur & anr.

... Petitioners

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. Arvind Galav, Advocate,
for the petitioner.

Mr. JS Bedi, Addl. A.G., Haryana.

RAJIV NARAIN RAINA, J.(Oral)

The Government employee through whom the claim for compassionate appointment is drawn died on November 29, 1996. The bread earner left behind his mother, his widow and two minor children. The petitioning widow at No.1 in a joint petition with her son staked a claim for financial assistance or to reserve a post for her minor son and offer it to him when he attains the age of majority. The prevailing instructions on the subject at the time of death were of May, 1995 which conceded to the concession of compassionate appointment but made no provision in the scheme for financial assistance. Their claim for compassionate appointment to the son after he came of age was declined by the Commissioner-cum-Director General School Education, Haryana, Chandigarh-respondent No.2 citing new instructions/rules which require applications to be filed within 3 years from the date of the death of the government employee-bread winner.

As a result, petitioner No.1 has neither been able to obtain compassionate

appointment for her son (petitioner No.2) nor financial assistance to the dependent family members and both of them have approached this Court feeling aggrieved, praying for payment of financial assistance, having given up her claim to compassionate appointment. The claim is based on the scheme contained in the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006 which breathes life into pending applications to be considered by the competent authority as live claims.

The question which falls for consideration is as to whether the petitioners had a pre-existing claim to financial assistance on the date of death of the income-producer. In the absence of a scheme for financial assistance when the death occurred, the petitioners cannot I believe assert a right which is not pre-existing and therefore, the question of a claim subsisting or “pending” does not arise as any departure by court would be creating a fresh right which was not possessed by petitioner No.1 either on the death of her husband or on the date of consideration because there is no medium to carry forward the demand for money. Therefore, I see no way out to provide relief to the petitioners and would dismiss the petition though with a heavy heart. It has not being made clear in the petition by an assertion as to whether petitioner No.1 was provided family pension on the death of her husband in terms of the Punjab Civil Services Rules as applicable to Haryana and the pension schemes framed therein. However, I assume that the widow must have been receiving family pension from Government which is equally favourable to the lump-sum financial assistance in the schemes in Rules, 2003 and 2005. The 2006 rules can to my mind be activated only when a right existed in the dependents to

financial assistance when the Government employee died while in office.

Accordingly, the petition fails and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

2.12.2016
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>