IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 13011 of 2014 (O/M)
Date of decision : 3.10.2016

Somwati .... Petitioner (s)

Versus

State of Haryana and others .... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. S.K. Yadav, Advocate, for the petitioner.

Mr. Naveen Sheoran, Deputy A.G. Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

-.- -.-

KULDIP SINGH J. (ORAL)

Somwati-petitioner has sought the issuance of a writ of certiorari for quashing the impugned order dated 5.6.2014 (Annexure-P-8), whereby the claim of the petitioner for compassionate assistance was declined on the ground that the two sons of the petitioner are earning Rs. 6,000/- per month each, therefore, she is not entitled to financial assistance under the Haryana Ex-gratia Financial Assistance to the Dependents of Deceased Government Employees Rules, 2005 (for short 'the Rules of 2005').

The undisputed facts of the case are that Sube Singh, husband of the petitioner, was working as a Physical Training Instructor with respondent-Education Department since 4.1.2005. The said Sube Singh was to retire on 31.10.2013, but unfortunately he died in harness on 30.7.2005. Thereafter, the petitioner applied for ex-gratia compassionate financial assistance on 20.4.2006 as per the Rules of 2005. Since no response was received, the petitioner approached this Court by way of filing the writ petition i.e. CWP No. 26886 of 2013, which was disposed of by this Court, vide order dated 4.12.2013, with a direction to respondents to pass a speaking order. Thereafter, the petitioner had to file contempt petition i.e. COCP No. 598 of 2014 and only thereafter, a speaking order dated 5.6.2014 (Annexure-P-8) was passed, declining the ex-gratia compassionate assistance on the ground stated above.

In the reply also, the State has taken the stand that since two sons of the petitioner are getting more than Rs. 6,000/- per month each from the military service, therefore, the petitioner is not covered under Rule 8(b) of the said Rules of 2005 and, therefore, she is not entitled to ex-gratia compassionate financial assistance.

I have heard the learned counsels for the parties and have also carefully gone through the file.

The examination of the Rules of 2005 relating to the compassionate assistance shows that the Rules provide for ex-gratia appointment on compassionate ground or ex-gratia financial assistance. Under the said rules, in case the appointment on compassionate ground is not sought, the family is entitled to ex-gratia financial assistance to the tune of Rs. 5,00,000/-. Rule 2(ii) reads as under :-

> "2. xxxxxx xxxxxx xxxxxx
>
> (i) xxxxxx xxxxxx xxxxxx
>
> (ii) ex-gratia compassionate financial assistance to the family of the deceased, over and above all other service benefits, to be paid @ Rs. 5 lacs, in cases where the family of the deceased does not opt for ex-gratia employment or where no such appointment can be offered within a period of three years from the date of making of an application by the eligible dependent

member of the deceased Government employee ; or

xxxxxx xxxxxx xxxxxx"

Rule 8 of the said Rules of 2005 provides for eligibility. Rule 8 of the said Rules of 2005 is reproduced as under :-

"8. The criteria for eligibility under these Rules shall be as under :-

(a) The family is indigent and deserves immediate assistance for relief from financial destitution and dependent upon the deceased/missing Government employee.

(b) The monthly income of the family shall not exceed Rs. 6,000/- per month, from all sources other than family pension. For this purpose, the income of the entire family of the deceased/missing Government employee will be taken into account and not just the income of the dependent who has applied for appointment on compassionate grounds.

(c) The applicant for appointment should be eligible and suitable for the post in all respects under the provisions of the relevant recruitment rules.

(d) Where spouse of the deceased/missed Government employee is already in Government service, no other dependent member shall be eligible for appointment or ex-gratia compassionate financial assistance.

(e) Married son of the deceased/missing Government employee will be eligible only if no other member of the family is eligible for Government service and his spouse is not already in Government service and unmarried eligible dependent is not willing to join service and gives an affidavit to this effect.

(f) The prescribed educational qualifications and lower/upper age limits, shall not be relaxed for appointment.

(g) In case the dependent of the deceased/missed

> Government employee is not eligible for appointment on any ground mentioned in clauses (c) and (f) of this rule, the family member shall be given ex-gratia assistance of Rs. 5.00 lacs.”

The respondents in the impugned order have applied clause (b) of Rule 8 of the said Rules of 2005, which is reproduced above. The perusal of said clause shows that it talks of a dependent, who has applied for appointment on compassionate ground. It does not talk of ex-gratia financial assistance, whereas the other clauses talk about eligibility for ex-gratia compassionate appointment also. Clause (g) clearly shows that in case, the dependent of the deceased Government employee is not eligible for appointment on any ground, mentioned in clauses (c) and (f) of Rule 8 of the said Rules of 2005, the family members shall be given ex-gratia financial assistance of Rs. 5,00,000/-. In the matter of ex-gratia financial assistance, no eligibility of the income of the family is provided. Therefore, the reliance on Rule 8(b) of the said Rules of 2005 is misconceived and misinterpretted by the respondents, while passing the impugned order.

Consequently, the present writ petition is allowed. The impugned order dated 5.6.2014 (Annexure-P-8) is hereby quashed. The respondents are directed to provide Rs. 5,00,000/- ex-gratia financial assistance to the petitioner, in terms of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005, as reproduced above. Since the financial assistance was applied in April, 2006, therefore, interest at the rate of 9% per annum shall be payable after three months, i.e. starting from 1.7.2006 till payment. The compliance of this order be made within three months from the date of receipt of copy of this order.

(KULDIP SINGH)
JUDGE

3.10.2016
sjks

Whether speaking / reasoned	:	Yes
Whether Reportable	:	Yes