

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No. 17117 of 2013
Date of decision : 24.02.2016**

Hans Raj

...Petitioner

versus

State of Haryana & others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Sharma, Advocate
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI , J. (Oral)

The father of the petitioner was working as Chowkidar in DHBVN Sub Divn Pataudi and died on 10.10.1988 during the service and petitioner thus applied for the service before the respondents under the ex gratia scheme to provide him employment in the year 2000 and thereafter, respondents asked the petitioner to submit the affidavit regarding his income and the petitioner submitted his detail on 23.02.2001 and stated that he and his mother has no income. Further he stated that he has two brothers who are living separately after

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marriage and has three sisters who are also married. However, respondents rejected the claim of the petitioner vide order dated 01.07.2013 on the sole ground that total income of the family was above Rs.6000/- per month, as they included the income of his brothers as well. This order was passed in compliance of order dated 02.05.2013 passed in LPA No. 481 of 2013, whereby challenge is to order dated 25.01.2013 passed by this Court in CWP No. 1592 of 2013 which was filed by the petitioner. While disposing of LPA No. 481 of 2013, the respondent-Corporation was directed to consider the subsequent representation dated 15.01.2004 of the appellant in the light of Government policies and if the family of the deceased is found entitled to grant the same and/or pass a speaking order within a period of four months.

Petition is seeking quashing of the above said impugned order dated in the light of order dated 09.07.2015 passed in CWP No. 20642 of 2013 (P-10) whereby this Court has dealt with similar issue wherein husband of petitioner died on 03.04.2006 during service and the claim of her wife for compassionate benefits was rejected on the ground that her family income (which included three adults and one married daughter) was more than Rs.6000/- per month despite the fact that her sons were living separately from her. This Court allowed the

writ petition and respondents were directed to pay the amount of Rs.2.5 lacs to the petitioner along with interest @6% per annum w.e.f 01.10.2006 till the date of payment.

On notice, a written statement has been filed by the respondent Nos 2 and 3 stating therein that the case of petitioner was not found feasible in terms of Rule 8(b) of Haryana Compassionate Appointment Government Employees, Rules 2003.

One thing which is clear that the income of the family of the petitioner was not more than Rs.6000/- as his brother and sisters were living separately and only he and his mother were living and their income was not more than Rs.6000/-.

The point for consideration before this Court is now the petitioner is eligible for financial assistance under policy of 2003 or 2005

At the time when the impugned order dated 01.07.2013, the policy of 2003 as well as policy of 2005 was in existence but the respondent-Corporation considered the case of the petitioner under the policy of 2003 and rejected his claim on the sole ground that the family of the income is more than Rs.6000/- per month. Thereafter, 2005 policy came in existence which was forwarded by the Chief Secretary to Government of Haryana to all the Heads of Department of

Haryana and according to which all the pending cases of all those government employees, whose family members were eligible under Rules, so repealed shall be disposed off in accordance with old Rules of 2003 only.

So, the respondent-Corporation has the opportunity to dispose of the case of the petitioner by giving him financial assistance of Rs. 2.5 lacs under 2003 policy but they chose not to do so and the petitioner has to approach to this Court thrice i.e by filing CWP No. CWP No. 1592 of 2013, LPA No. 481 of 2013 and the present writ petition.

The petitioner has submitted his detail regarding income of the family on 23.02.2001 and 15 years have gone by and now the case of the petitioner can be considered under 2005 policy (P-9) whereby ex gratia compassionate financial assistance to the family of the deceased Government employees has been increased from Rs.2.50 lacs to Rs. 5 lacs.

Applying the ratio of the above mentioned judgment to the facts of the present case, order dated 01.07.2013 is set aside and the respondents are directed to pay the amount of Rs.5 lacs to the petitioner along with @ 6 per cent per annum w.e.f 01.12.2005 till the date of payment, as per policy dated 30.11.2005 (P-9).

The writ petition is allowed accordingly.

(RITU BAHRI)
JUDGE

24.02.2016
G Arora