

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

CWP No. 16900 of 2014

Date of Decision: 17.10.2016

BABLI DEVI

... Petitioner

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Neeraj Gupta, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

KULDIP SINGH, J (ORAL)

The prayer of the petitioner in this writ petition filed under Article 227 of the Constitution of India is for issuance of writs of certiorari or mandamus directing the respondents to release the monthly salary of the her deceased husband as per Haryana Compassionate Assistance Rules, 2006 alongwith interest.

Brief facts of this case are that the husband of the petitioner namely Lilu Ram was working as Constable in the Police Department, Haryana. He died in harness on 25.12.2003. The petitioner applied for job for her son under Haryana Compassionate Rules, 2006 (for short 'Rules, 2006'). Vide letter dated 23.08.2006, the petitioner was informed that there is no vacancy in the Department, therefore, she was given option for getting monthly salary of her deceased husband as per Rules, 2006. The petitioner accordingly opted for the same and vide order dated 23.10.2006, monthly salary of her deceased husband was sanctioned under the said Rules, 2006.

But after March, 2008, the same was suddenly stopped/withdrawn stating that

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audit party from the office of Accountant General has raised objection that as pension payment order (PPO) has been issued to the petitioner, therefore, the monthly salary cannot be sanctioned to her under the Rules, 2006.

The petitioner now claimed the release of monthly salary of her deceased husband in terms of the Rules, 2006.

The State in the reply has taken the stand that the petitioner had opted to receive the financial assistance under Rules 5 (1) of ex-gratia Rule 2006 effective w.e.f. 01.08.2006. The Director General of Police, Haryana vide his office order Endst. No. 17512-16/W-5 dated 23.10.2006, accorded permission for financial assistance w.e.f. 01.08.2006, a sum equal to the pay and other allowance except house rent allowance that was last drawn by the deceased employee in normal course without raising a specific claim. On the date of death, the deceased employee had attained the age of 37 years 8 months and 15 days as his date of birth was 10.04.1966. Therefore, the petitioner was allowed financial assistance a sum equal to pay and allowances except house rent allowance (HRA) last drawn by the deceased employee in terms of Rules, 2006. It is stated that since, the husband of the petitioner had died on 25.12.2003, he is not covered under the Rules, 2006, therefore, the same was withdrawn/stopped w.e.f. 18.11.2008 and office of Accountant General has been requested to restore the PPO. Since then the petitioner is getting family pension regularly.

I have heard learned counsel for both the parties.

The Haryana Compassionate Assistance Rules, 2006 dated 01.08.2006 (*Annexure P-7*) provides for criteria for financial assistance.

Rule 5 of the said Rules, 2006 is reproduced below: -

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1. *On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim,*
 - a. *For a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty five years.*
 - b. *For a period of twelve years of all the date employee would have retired from Government Service on attaining the age on superannuation, whichever is less, if the employee at the time of his death had attained the age of thirty five years but had not attained the age of forty years.*
 - c. *For a period of seven years till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty eight years.*
2. *The family shall be eligible to respect family pension as per the normal rules only after the period during which has receives the financial assistance as above is completed.*
3. *The family of a deceased Government employee who was occupation of a Government residence could continue to retain residence on payment of normal rent/license fee for a period of one year from the date of death of the employee.”*

Regarding the pending cases Rule 6 of the Rules, 2006 provides as follows: -

“Rule 6

All pending cases of ex-gratia assistance shall be covered under the new Rules. The calculation of the period and payment shall be made to such cases from the date notification of these Rules.

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However, the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the dependents of the Deceased Government Employees Rules, 2006.”

Therefore, it is clear that all the pending cases are to be dealt with by the new Rules, 2006. The petitioner is accordingly qualified for financial assistance as sum equal to the pay and other allowances last drawn by her deceased husband in terms of the said Rules, 2006. Since, the case of the petitioner was kept pending and was decided after coming into operation of the new Rules, 2006, therefore, as per the Rule 6 of the Rules, 2006, the case of the petitioner is to be dealt with under the new Rules, 2006.

Therefore, the order stopping financial assistance under Rules, 2006 is patently illegal and hereby quashed. The respondents are directed to restore the financial assistance to the petitioner as per Rules, 2006. The arrears be released to the petitioner minus the family pension already given to her under the impugned order, within a period of two months from the date of passing of this judgment alongwith interest @ 8% per annum.

In view of the above, the present petition stands allowed.

October 17, 2016

Suresh Kumar

**[KULDIP SINGH]
JUDGE**

Whether speaking / reasoned

✓

Yes / No

Whether Reportable

✓

Yes / No