

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.1778 of 2016

Date of Decision:- 06.04.2016

Sheela

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Present: Mr. Munish Kumar Garg, Advocate
for the petitioner.

Mr. Ravi Partap Singh, Asstt. Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioner by way of present petition is seeking directions to the respondents to release the ex-gratia benefits. The husband of the petitioner, namely, Subhash, was given appointment as Conductor on the contract basis at a fixed salary of ₹2500/- per month by the General Manager, Haryana Roadways, Jind. He was medico-legally examined and was issued medical certificate dated 27.05.2004 (Annexure P-1). The petitioner's husband gave joining report as per order dated 31.05.2004 and his joining report is dated 01.06.2004 (Annexure P-3). He continued the services up to 24.04.2006 but unfortunately he was expired during the

service period on 24.04.2006 as per death certificate dated 25.05.2006 (Annexure P-4). Petitioner thereafter made a claim to the respondent(s) for grant of Compassionate Assistance under the Haryana Compassionate Assistance to the Dependent of Deceased Government Employees Rules, 2006 (Annexure P-5) (hereinafter to be referred as '2006 Rules'). The claim of the petitioner was declined on the ground that she was not entitled under the Ex-gratia scheme, vide reply to the legal notice dated 05.10.2015 (Annexure P-10), as her husband on contract basis and the benefit under the 2006 Rules was not admissible to her. The petitioner has referred to a judgment passed by this Court in **CWP No. 5593 of 2011** titled **Kelo Devi Vs. State of Haryana and others**, decided on **07.02.2013** (Annexure P-11) wherein the appointment had been made on a consolidated salary against a temporary basis and the husband of the petitioner had been appointed on 21.06.2008. He died thereafter on 05.09.2010 after serving for little over two years. The object of the 2006 Rules is to mitigate the sudden financial crises that have fallen upon the family of a deceased Government employee on account of the loss of a bread-winner. However, as per Rule 3 of the 2006 Rules that the eligibility of a dependent to receive financial assistance under such Rules shall be as per provision in the pension/Family Pension Scheme, 1964. The respondent(s) examined the appointment letter of the husband of the petitioner and came to a conclusion that the appointment to the post driver had been made in pursuance to a process of selection conducted by the Haryana Staff Selection Commission and it had been made on regular basis even though against a temporary post. The language of the appointment letter was

‘contractual/ daily wage’ and such language could not detriment the right of the petitioner to claim ex-gratia assistance under 2006 Rules. The writ petition was allowed.

Similarly, in the case of **Krishna Devi Vs. State of Haryana and others** in **CWP No.1200 of 2007, decided on 25.03.2009** (Annexure P-12), the husband of the petitioner had been appointed on contract basis as Driver. The services of her husband have been regularized on 07.01.1998 and the writ petition was allowed by giving directions to respondent(s) to consider the claim of the petitioner of compassionate assistance under the 2006 Rules.

The respondent in the written statement has taken a stand that the husband of the petitioner was appointed as conductor during the strike in the year 1993 and after end of the strike he was relieved vide order dated 21.12.1993. Thereafter, in compliance of directions of the Hon’ble Supreme Court of India in SLP No.316 and 317 of 2004, the husband of the petitioner was offered appointment on the post of conductor on contract basis on a fixed salary of ₹2500 per month. He was appointed on 01.06.2004 and thereafter he was expired on 24.04.2006. The Director of State Transport Haryana, vide letter dated 25.01.2006 (Annexure R-1) has informed that the Government has not generalized the judgment rendered in CWP No.5593 of 2011 titled as Kelo Devi Vs. State of Haryana and others.

After hearing the learned counsel for the parties and after perusing the judgment in **Kelo Devi’s case (supra)**, this Court is of the considered view that the husband of the present petitioner was appointed as

conductor on a fixed salary on 19.05.2004. He was medico-legally examined and thereafter he joined on 01.06.2004 as per joining report (Annexure P-3). Thereafter, he expired on 24.04.2006, after serving for two years. Hence, as per provision of the Pension/Family Pension Scheme, 1964, he served for more than 1 year and had been examined by the appropriate Medical authority and was declared fit for government service. The judgment in **Kelo Devi's case (supra)** has not been generalized by the Government, even then the case of the petitioner is covered by the provisions of the Family Pension Scheme, 1964 and as per the Rules 2006 the dependent of an employee is entitled for financial assistance.

Applying the ratio of judgment of **Kelo Devi's case (supra)**, the present petition is allowed. The petitioner is held to be entitled for the grant of ex-gratia assistance under the 2006 Rules as the husband of the petitioner had served w.e.f. 20.05.2004 to 24.04.2006. The petitioner shall be released the financial assistance as per the 2006 Rules, within a period of one month, from the date of receipt of certified copy of this order.

April 06, 2016
naresh.k

(**RITU BAHRI**)
JUDGE