

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

CWP No.27536 of 2015

Date of decision: 29.01.2016

Bimla Devi

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Samarvir Singh, DAG, Haryana.

RITU BAHRI, J.

Petitioner is seeking a writ of certiorari for quashing of order dated 08.05.2015 (Annexure P-9) rejecting his claim for grant of financial assistance under the Ex-gratia Scheme of Haryana Government on account of death of her husband-Krishan Kumar, who died during the course of employment on 28.05.2012.

Learned counsel for the petitioner states that pursuant to advertisement No.3/2009, husband of petitioner namely Krishan Kumar had applied to the Haryana Staff Selection Commission, Bays No.67-70, Sector 2, Panchkula, for the post of Conductor. He was called for the interview and was appointed as Conductor on temporary basis vide appointment letter dated 02.04.2012 (Annexure P-2). Thereafter, he was medically examined by the Chief Medical Officer, Bhiwani as per Annexure P-3. During the course of employment, Krishan Kumar (husband of petitioner) expired on 28.05.2012. Copy of death certificate in this regard has been annexed as Annexure P-5.

Thereafter, the petitioner made a representation dated 04.09.2012 (Annexure

P-6) for grant of ex-gratia payment as per policy dated 09.05.2013 (Annexure P-4). This policy provided the benefit of group personal accident Insurance for contractual drivers/conductors, daily wagers and adhoc staff in Haryana Roadways to the extent of Rs.5 lacs upon death of an employee and Rs.2.5 lacs on account of disability suffered by an employee. The representation of the petitioner has been rejected vide order dated 08.05.2015 (Annexure P-9) on the ground that husband of the petitioner was working on contract basis and his services had not been regularized.

Learned counsel for the petitioner has referred to the judgment passed by this Court in **Usha Rani and others Vs. State of Haryana and others**, CWP No.10697 of 2013, decided on 07.10.2014 (Annexure P-11), wherein one Sultan Singh, who had been appointed as driver pursuant to the advertisement issued by the Haryana Staff Selection Commission, had died before completing one year of service. Ground to deny the benefit of ex-gratia amount that he served for less than a year and that too on contract basis, was rejected by making reference to the judgment passed by this Court in CWP No.8183 of 2009, **Neeraj Yadav and another Vs. State of Haryana and others**, decided on 12.10.2009, wherein it was held that even if the deceased Government employee had worked less than one year, his dependents were entitled to grant of family pension. Further, reference was made to a judgment given in **Kelo Devi Vs. State of Haryana and others**, CWP No.5593 of 2011 (decided on 07.02.2013), wherein while considering the case of driver, it was held that the manner in which the appointments were made, even if not termed to be regular, they could be treated as temporary and the family was entitled to benefits under the Rules. In **Mohinder Singh and others Vs. State of Haryana and others**, CWP

No.22516 of 2012 (decided on 01.04.2013), a Division Bench of this Court had set aside the Haryana Transport Department (Group-C), Haryana Roadways Service (Amendment) Rules, 2004, providing for contractual appointments to the drivers for the first three years, followed by regular pay scale. It was held that the drivers, so appointed, shall be entitled to minimum of the pay scale from the date of their initial appointments. It was further held that the family of deceased employee could not be denied the benefits under the Rules.

Learned State counsel has not been able to dispute that the judgment passed by this Court in **Usha Rani's** case (supra) has attained finality as no LPA against the said judgment has been filed by the State. The issue involved has attained finality.

Accordingly, in view of the judgment passed in **Usha Rani's** case (supra), the petitioners are held entitled to the benefit of ex-gratia payment as per policy (Annexure P-4). The respondents are directed to calculate due amount and release the same in favour of petitioner within a period of three months from the date of receipt of certified copy of this order.

Allowed accordingly.

(RITU BAHRI)
JUDGE

29.01.2016
ajp