

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

CWP-5017-2014

Date of decision: 15.07.2016

Smt.Santosh Devi**.....Petitioner****versus****State of Haryana and others****.....Respondents****CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.Ajay Shekhawat, Advocate for the petitioner
Mr.Naveen Sheoran, DAG Haryana

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Mahender Singh, Forest Guard, husband of the petitioner Santosh Devi died in harness on 18.10.2005. At that time policy vide notification dated 28.2.2003 (Annexure P2) was applicable, wherein the government had framed the rules for grant of compassionate assistance by way of ex-gratia financial assistance or ex-gratia appointment on compassionate ground to the members of the family of a deceased government employee who died while in service. Under the said rules, if the family opted for financial assistance, the amount of financial assistance was Rs.2.5 lacs. Later on the government promulgated another policy vide notification dated 18.11.2005 (Annexure P3), whereby the compassionate assistance was raised to Rs.5 lacs. Rule 4 is reproduced as under:-

“4. Option:- (1) An eligible family member of the deceased/missing Government employee shall give in writing his/ her

preference of option, within 6 months from the date of the Government employee, for one of the following:-

(a) ex-gratia appointment on compassionate grounds to a member of the family who was “completely dependent” on the deceased employee and is in extreme financial distress due to the loss of the deceased, namely, the Government employee who dies in 'service'.

or

(b) ex-gratia compassionate financial assistance to the family of the deceased, over and above, all other service benefits like ex-gratia grant due to his/her family, to be paid @ Rs.5 (five) lacs in case of the family of the deceased not opting for ex-gratia employment (Rs.5.00 lacs if the deceased Government employee was of the age of 55 years or above, on the date of death): If the Government employee dies at the age of 55 years or thereafter, his family shall not be eligible for ex-gratia appointment.

(2) Exercise of option shall be permitted only once and shall not be changed, once exercised.”

In terms of the said policy, the petitioner exercised option on 14.2.2006 (Annexure P4) within the stipulated period of six months, whereby she opted for financial assistance in lieu of appointment as per government ex-gratia policy. Accordingly, the Divisional Forest Officer, Bhiwani recommended the case of the petitioner for financial assistance of Rs.2.50 lacs, which was ultimately released to her vide order 25.4.2006 (Annexure P7).

The short plea of learned counsel for the petitioner is that the policy dated 18.11.2005 (Annexure P3) is to be applied in case of the petitioner, whereas the State has taken the stand that since date of death is 18.10.2005, therefore, the policy dated 28.2.2003 will apply.

After hearing both the parties and considering the rival submissions and going through the policies, I am of the view that in the earlier policy Annexure P2 or in the later policy Annexure P3, no cut off date was mentioned regarding date of death of the government employee so as to apply the policy to his case. The matter would have been different if it would have been stipulated in the policy that the policy will be applicable to the government servants dying on or after the date of the notification of policy. In the absence of the same, the policy which is in vogue at the time when the option was exercised is to be applied. The option was exercised on 14.2.2006, when the later policy of 2005 was applicable. Therefore, the ex-gratia financial assistance was to be released in terms of the policy of 2005.

As such, the petition is allowed. Respondents are directed to release the balance amount of of Rs.2.5 lacs financial assistance within a period of two months from the date of receipt of a certified copy of this order with interest @ 9% per annum till the payment is made w.e.f. 1.5.2006 when the part of the ex-gratia assistance was released to the petitioner.

15.07.2016
gk

(Kuldip Singh)
Judge