

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

CWP No.18144 of 2013

Date of Decision:28.03.2017

Smt. Chameli Devi and another

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Vijay K. Kajla, Advocate for the petitioners.

P.B. BAJANTHRI J. (Oral)

Notice of motion.

On the asking of the Court, Mr. Hitesh Pandit, Addl. A.G. Haryana, who is present in Court, accepts notice on behalf of the respondents-State.

Learned counsel for the petitioners is directed to furnish three sets of writ papers to the learned counsel for the respondents-State.

In the instant petition, the petitioners have questioned the validity of order dated 4.3.2013 (Annexure P-7) by which petitioners' claim for compassionate as well as financial assistance to the extent of Rs.5 lacs has been rejected.

The first petitioner's husband was involved in a criminal case and he was convicted on 7.6.1988. Due to conviction in a criminal proceeding, first petitioner's services were terminated on 17.11.1988. During the pendency of the criminal appeal, first petitioner's husband died on 21.2.1992. On 23.10.2002, first petitioner's husband and others who were convicted on 7.6.1988 were acquitted in appeal. Consequently, first petitioner and others filed a writ petition before this Court questioning the validity of order of termination of first petitioner's husband dated

17.11.1988. This Court while disposing CWP No.1656 of 2008 on 14.5.2008 allowed the petition with the following observation:

“In view of facts mentioned above, we allow this writ petition and set aside the order of termination of Ram Chander dated 17.11.1988, he be deemed to have been reinstated in service. However, it is made very clear that as Ram Chander was terminated from service on account of some private dispute, in which he was convicted, the petitioners shall not be entitled to claim any actual financial benefits for the period abovesaid Ram Chander remained out of service. Notional benefits will be granted to them and by taking note of date of death of Ram Chander, family pension and other retiral benefits shall be calculated and disbursed to the petitioners.”

In view of the disposal of the writ petition, second petitioner is stated to have submitted an application for appointment on compassionate ground on 19.4.2010. The same was rejected on 4.3.2013.

Learned counsel for the petitioners vehemently contended that cause of action for the first and second petitioners arose for the purpose of seeking benefit of financial assistance and appointment on compassionate ground on 14.5.2008. Consequently, they have submitted an application on 19.4.2010. The same was rejected on 4.3.2013. Learned counsel for the petitioners argued that second petitioner is entitled for compassionate appointment and the first petitioner is entitled for enhanced financial assistance from Rs.2.5 lacs to Rs.5 lacs having regard to the policy relating to financial assistance Rules which were in vogue on 14.5.2008 is 2006 Rules. Therefore, the decision of the respondents in rejecting the claim of the petitioners for compassionate appointment and financial assistance is contrary to rules governing compassionate appointment and financial assistance Rules 2006.

Per contra, learned counsel for the respondents submitted that second petitioner is not entitled for compassionate appointment at this belated stage for the reasons that second petitioner's father died on 21.2.1992 and his father was terminated from service on 17.11.1988. After lapse of so many years. This Court has held that second petitioner's father termination is illegal and directed for grant of family pension etc that does not give any cause of action to the second petitioner to seek compassionate appointment at belated stage. Insofar as payment of financial assistance is concerned, it is argued that having regard to the first petitioner's husband's death is on 21.2.1992 and the policy existing as on that date is required to be taken into consideration. Even assuming that the application for compassionate appointment and financial assistance is pending consideration before the authorities, the same has been taken into consideration and it is decided vide impugned order dated 4.3.2013. Therefore, there is no infirmity in the impugned order dated 4.3.2013.

Heard learned counsel for the parties.

Crux of the matter is whether first petitioner is entitled for enhanced financial assistance or not?

Having regard to the fact that cause of action accrued to the petitioners for claiming financial assistance as well as compassionate appointment on 14.5.2008 and as on that date whatever the rules existing for the purpose of extending the benefit of compassionate appointment and financial assistance is of the year 2006. Under 2006 Rules, it is learnt that financial assistance would be given upto Rs.5 lacs. Therefore, first petitioner is entitled to claim for financial assistance to the extent of Rs.5 lacs.

Thus, concerned respondent is directed to re-consider the claim of the petitioner and extend the benefit of financial assistance to the extent of Rs.5 lacs alongwith interest @ 9% per annum from 19.4.2010 the date on which the application is submitted.

Second petitioner's claim for compassionate appointment is concerned, it is to be noted that both the petitioners survived after the death of the bread earner of the family from 21.2.1992 to 19.4.2010. Therefore, second petitioner is not entitled for compassionate appointment. The object of granting compassionate appointment is to meet the harness in the family i.e. on the date of death of bread earner. Further Supreme Court time and again held that compassionate appointment is not a right. It is only for the purpose of consideration with reference to background of the family including the income. Therefore, second petitioner has not made out a case for the purpose of claiming compassionate appointment. Even on the ground of delay and laches, second petitioner is not entitled for compassionate appointment.

Accordingly, petition is dismissed insofar as claim for compassionate appointment.

28.03.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**