

CWP-20673-2015

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

**CWP-20673-2015
Date of Decision : 15.05.2017**

RAJPATI

..... Petitioner

Versus

STATE OF HARYANA & ORS

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. S.S.Sahu, Advocate for
for the petitioner(s).

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has prayed to quash the order dated 27.3.2015 (Annexure P-8) passed by Director Secondary Education, Haryana.

Brief facts of the case are that the husband of the petitioner was appointed as a Safai Karamchari on 2.9.1985. After having been in service for 15 years his services were regularised on 21.6.2000. He unfortunately died on 15.1.2003 leaving behind the petitioner and three minor sons. The petitioner is stated to have applied for a job for her son and as was the practice at that time, she was informed that her elder son was minor and his case would be considered when he would attain the age of majority. Even after her son attained the age of majority his case for compassionate appointment was not considered and ultimately he filed

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CWP No. 26607-2014 and that petition was disposed of with a direction to the respondents to decide the representation. The representation having been rejected, she is before this Court.

The impugned order Annexure P-8 mentions that since the services of the husband of the petitioner had been regularized only with effect from 26.01.2000 and since he had died on 15.01.2003 prior to having completed 3 years service so the petitioner was not entitled to any benefit under 2003 Rules. Even in the written statement filed before me only this ground has been taken. Learned counsel for the petitioner has relied upon the decision of Division Bench of this Court in the matter of **Smt. Kamlesh vs. State of Haryana** reported as **2006(6) SLR 398** in that case also this very Rule and this very requirement of having 3 years of regular service was considered and it was held as follows:-

*".....The plain meaning of the Rule is that an employee should have served the Government for at least for three years which the husband of the petitioner has done. It is also pertinent to notice that any adhoc service followed by regularisation is to qualify for pension as has been held by the Full Bench of this Court in **Kesar Chand v. State of Punjab 1988(2) P.L.R. 223**. Therefore, we regret our inability to agree with the learned State counsel and reject the interpretation preferred by the respondents in the impugned orders dated 7.6.2005 (Annexure P-3) and 18.8.2005 (Annexure P-5)."*

The perusal of this decision clearly shows that the claim of the petitioner has been illegally rejected.

Now we come to the relief which can be granted to the petitioner. Obviously in terms of the decision of the Supreme Court in the

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matter of **Union of India and Others vs. Sima Banerjee** passed in Civil Appeal No. 251 of 2017 decided on 10.01.2017 compassionate appointment cannot be granted to either the petitioner or her family members. However, since the claim of the petitioner has not been decided till the promulgation of the 2006 Rules, I deem it appropriate to now grant relief to the petitioner under those Rules. Those rules envisaged an option and I consequently grant the petitioner one opportunity to submit her option as per the 2006 Rules. The respondents are directed to release all the benefits to the petitioner as per the option she may exercise within a period of 2 months thereafter. In normal circumstances the court may grant more time but considering the background of the petitioner, the kind of job her husband was doing the interest of justice would be met only by granting lesser time. It is further clarified that if due payment is not made to the petitioner within the time frame fixed the petitioner would be entitled to claim the same with interest 8% per annum from the date/s the amount/s fell due.

Petition stands disposed of.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

15.05.2017
anuradha

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No