

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

CWP No.2131 of 2015

Date of Decision:22.03.2017

Babu Lal

... Petitioner

Vs.

State of Haryana and another

... Respondents

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

Present : Mr. Anil Shukla, Advocate for the petitioner.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has questioned the impugned orders dated 22.11.2005, 26.03.2008 and 21.12.2012 (Annexures P-2, P-4 and P-7 respectively) passed by second respondent by which petitioner's claim for compassionate appointment has been rejected on the ground that the petitioner's case would not fall under the rules called the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 notified on 28.2.2003 (for short "2003 Rules).

Learned counsel for the petitioner submitted that petitioner's mother Smt. Jaswanti died on 31.7.2005 while working as Safai Karamchari. Consequently, on 18.8.2005, he has submitted an application for compassionate appointment. The same was rejected on 22.11.2005 vide Annexure P-2. Thereafter, the petitioner submitted further application. The same was rejected on the ground that the petitioner is over age for compassionate appointment. Hence, he is not entitled for compassionate appointment. The petitioner has questioned the validity of rejection of his claim for compassionate appointment. Learned counsel for the petitioner pointed out that Rule 3 of 2003 Rules relates to "dependent" means. An

extract of which reads as under:

“(e) “dependent” means--

(i) spouse of the deceased Government employee or missing Government employee;

(ii) son (including adopted son) till he attains the age of 25 years subject to the proof of adoption as envisaged in the Hindu Adoption and Maintenance Act, 1956 (78 of 1956).

(iii) unmarried daughter (including adopted daughter) till she attains the age of 25 years subject to the proof of adoptions as envisaged in the Hindu Adoption and Maintenance Act, 1956 (78 of 1956).

(iv) the person who was wholly dependent at the time of his/her death.”

In support of the petitioner's claim, he relied on sub clause (iv) of clause (e) of Rule 3 contending that he was wholly dependent when his mother passed away on 31.7.2004. Therefore, with reference to the said clause, he is entitled for compassionate appointment. Thus, the rejection of the petitioner's for compassionate appointment is illegal and arbitrary.

Per contra, learned counsel for the respondents submitted that admittedly the petitioner is over age for appointment on compassionate ground. Having regard to the clause (e) of Rule 3 of 2003 Rules, Rule is required to be read in toto. In other words, under the dependent definition, sub clause (iv) of clause (e) of rule 3 of 2003 Rules cannot be read in isolation so as to claim the benefit. Compassionate appointment would be given only to the persons who are wholly dependent at the time of his/her death. Thus, the petitioner has not made out a case so as to question the validity of rejection of his claim.

Learned State counsel further pointed out that with reference to notification dated 10.2.2004 (Annexure P-9) by which the Haryana Compassionate Assistance to the Dependents of Deceased Government

Employees Rules, 2003 were amended and called the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees (Amendment) Rules, 2004 (for short "2004 Rules") wherein sub clause (iv) of clause (e) of Rule 3 of 2003 Rules has been omitted vide para 3 of 2004 Rules. In view of these facts and circumstances, the petitioner is not entitled for compassionate appointment.

Heard learned counsel for the parties.

Having regard to the admitted fact that the petitioner is over age as on the date of making application for compassionate appointment, the petitioner is not entitled for compassionate appointment. Perusal of 2003 Rules read with 2004 Rules, the petitioner has not made out a case for compassionate appointment.

Learned counsel for the petitioner submitted that the petitioner is entitled for financial assistance. In the present petition, there is no demand or prayer in this regard.

However, if necessary application is submitted by the petitioner to the concerned respondent for financial assistance, the competent authority would decide the petitioner's application within a period of three months from the date of receipt of such application in accordance with law. If the petitioner is entitled to financial benefits, the same shall be disbursed alongwith interest @ 6% per annum.

With the above observation, petition stands disposed of.

22.03.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No