

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1983 of 2016 (O&M)

Date of Decision: March 20, 2017

Sinder Kaur

.....Appellant

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Sudhir Sharma, Advocate, for the appellant.

Mr.Deepak Manchanda, Additional AG, Haryana.

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Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Deepak Manchanda, learned Additional Advocate General, Punjab, accepts notice on behalf of the respondents.

Let five copies of complete paper book be supplied to him during the course of day failing which this order shall be automatically recalled and the appeal shall be deemed to have been dismissed for non-prosecution.

[2] Heard learned counsel for the parties and record perused.

[3] The instant letters patent appeal assails the order dated 11.07.2016 vide which learned Single Judge has turned down the appellant's claim for the grant of *ex-gratia* compassionate assistance on account of unfortunate demise of her husband who was working as a Clerk in the S.D.M. office at Mandi Dabwali at the time of his death on 19.11.2004.

[4] Learned Single Judge has observed that in view of para-8 (D) of the Haryana Compassionate Assistance to the Dependents of Deceased

Government Employees Rules, 2003 (for short, 'the 2003 Rules'), the appellant is not entitled to the above-stated relief as she herself is serving in Education Department, Haryana.

[5] Learned counsel for the appellant relies upon the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short, 'the 2006 Rules') which came into force w.e.f. 01.08.2006. Rule 6 of the 2006 Rules clearly provides that “*all pending cases of ex-gratia assistance shall be considered under the new rules*”. It is urged that the appellant's claim for *ex-gratia* assistance was pending consideration when the new Rules came into force w.e.f. 01.08.2006, hence these Rules are applicable. It is further contended that as per Rule-3 of these Rules, “eligibility to receive 'financial assistance' shall be as per the provisions of Pension/Family Pension Scheme-1994”. It is then contended that there is no bar under the 1964 Rules/Scheme against the grant of financial assistance to the family members of a deceased-employee on the ground that the spouse of deceased-employee is in Government service. It is further contended that the deceased has left behind three children also who are totally dependent upon the appellant after his death.

[6] Having heard learned counsel for the parties, it appears to us that since the appellant claims *ex-gratia* financial assistance and *prima-facie* rightly so under the the new Rules of 2006, we allow this appeal in part; modify the order passed by the learned Single Judge and dispose of the appellant's writ petition with a direction to the Competent Authority to reconsider the appellant's claim, firstly by determining as to whether or not in view of Government Circular dated 16.01.2009 (P-4), the 2006 Rules are applicable and if it is found that the appellant's claim was required to be

considered under the 2006 Rules, the Competent Authority is further directed to consider whether or not the appellant is entitled to receive financial assistance under Rule 3 read with the 1964 Scheme. Let an appropriate decision in this regard be taken within a period of four months from the date of receiving a certified copy of this order.

Dasti.

[SURYA KANT]
JUDGE

March 20, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No