

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

LPA No.2068 of 2017 (O&M)

Date of Decision : 20.11.2017

The Principal Secretary cum Commissioner
Education Department, Haryana and others

....Appellants

Versus

Rajpati

....Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

Present : Mr.Samrath Sagar, Addl.AG, Haryana.

MAHESH GROVER, J. (Oral)

The State of Haryana is in appeal against the judgment of the learned Single Judge dated 15.05.2017 accepting the claim of the writ petitioner with a mandate that her case for ex-gratia benefits on account of the service rendered by her husband be considered under 2006 Rules.

The writ petitioner's husband was appointed as a Safai Karamchari on 02.09.1985 and after rendering 15 years of service he was regularised on his post on 21.06.2000, but unfortunately expired on 15.01.2003 leaving behind the writ petitioner and three minor sons. An application for job on compassionate ground was made for her son but she was informed of the inability to provide a job, the son being a minor but with a promise that the case would be considered when he attains the age of majority. Even after he attained majority his case for appointment was not considered and eventually he filed CWP-26607-2014 which was disposed of with a direction that his

representation be decided, which was rejected leading to the filing of the present writ petition from where impugned order has emerged.

It is not in dispute that the claim of the writ petitioner remained pending and was never conclusively commented upon. The learned Single Judge while relying upon the precedents i.e. *Union of India and others v. Sima Banerjee* passed in **Civil Appeal No.251 of 2017**, decided on 10.01.2017 noticed that compassionate appointment cannot be granted to either the petitioner or her family members but since the claim for benefits on this count remained pending with the State, it was directed that the needful be done under 2006 Rules.

The Rules in turn envisaged an option to be exercised by those affected persons whose cases have not been decided till the promulgation of the said Rules. The learned Single Judge granted an opportunity to the writ petitioner to exercise such an option and directed the State to release all the benefits to the writ petitioner in accordance with her option for which time limit of two months was prescribed. The stand of the State that the benefit could not be afforded to the writ petitioner as her husband had not completed three years of regular service was categorically negated as the period of 15 years prior to regularisation and some period thereafter was construed to be sufficient to be reckoned for the purposes of these benefits under the Rules. We would find no reason to disagree with the findings of the learned Single Judge based on various precedents conclusively determining these controversies. We also notice that the appeal has been filed after a delay of 100 days which has not been

satisfactorily explained.

Appeal dismissed on merits as well as on the ground of delay.

(MAHESH GROVER)
JUDGE

20.11.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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