

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

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**CWP-15495-2017 (O&M)
Date of decision:06.03.2018**

Sat Pal Chauhan

...Petitioner

Versus

Punjab & Haryana High Court, Chandigarh through its Registrar General

.... Respondent

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

Present: Mr. Anurag Goyal, Advocate for the petitioner.

Mr. A.D.S. Bal, Advocate for the respondent.

P.B. BAJANTHRI, J. (ORAL)

In the present writ petition, petitioner has challenged the validity of orders dated 28.09.2015 and 16.02.2016 (Annexures P6 and P8 respectively) by which his claim for grant of LTC advance has been turned down on the score that petitioner is claiming LTC advance in respect of 1st and 3rd child.

2. Learned counsel for the petitioner submitted that petitioner submitted application seeking grant of LTC advance on 14.09.2015 and it was rejected on 28.09.2015 stating that LTC advance for the first and third child is not in terms of the definition of family-clause (d) and its explanation of Rule 4 of the Central Civil Service (LTC) Rules 1988 (for

short 'Rules, 1988'). Further for re-consideration of the petitioner's claim he submitted one more application on 06.10.2015 and it was rejected on 16.02.2016. Hence the present petition.

3. Learned counsel for the petitioner submitted that having regard to the definition of family read with the explanation under Rule 4 of Rules, 1988 it does not speak of that LTC can claim only in respect of 1st and 2nd child. On the other hand, it is only two surviving children and the rule does not specify that employee cannot claim LTC benefit for the first and third child. Therefore, there is no infirmity in claiming LTC in respect of first and third child. It was also submitted that 2nd child being a male member and who is aged about 21 years, he can travel independently on that score petitioner submitted application claiming LTC insofar as first and third child. The rejection of the petitioner's claim with reference to Annexures P6 and P8 are not in terms of the definition of family and explanation to Rule 4 of Rules, 1988. Therefore, impugned orders are liable to be set aside.

4. Learned counsel for the respondent submitted that Rules, 1988 provides for claiming LTC benefit only for two surviving unmarried children. Two surviving unmarried children would be first and second child in the present petition. In other words, there is no provision to claim LTC for the 1st and 3rd child. Therefore, petitioner cannot claim LTC for the first and third child. Hence there is no infirmity in the rejection of the petitioner's claim vide Annexures P6 and P8, since it is in accordance with Rules, 1988.

5. Heard learned counsel for the parties.

6. Crux of the matter in the present petition is whether Government employee was required to claim LTC benefit only in respect of first and second child or not? Further whether employee can claim LTC benefit to first and third child or not? Rule 4 of Rules, 1988 relating to definition Clause (d) relates to Family which reads as under:-

- (i) the Government servant's wife or husband, as the case may be, and two surviving unmarried children or step children wholly dependent on the Government servant, irrespective of whether they are residing with the Government servant or not;*
- (ii) married daughters who have been divorced, abandoned or separated from their husbands and widowed daughters and are residing with the Government servant and are wholly dependent on the Government servant;*
- (iii) parents and/or step mother residing with and wholly dependent on the Government servant;*
- (iv) unmarried minor brothers as well as unmarried, divorced, abandoned, separated from their husbands or widowed sisters residing with and wholly dependent on the Government servant, provided their parents are either not alive or are themselves wholly dependent on the Government servant."*

7. Reading of the definition of family read with explanation no where there is prohibition for Government servant to claim LTC benefit for first child and third child. Claim is only for two surviving unmarried children or step children. Therefore, interpretation of the respondent while rejecting the petitioner's claim towards grant of LTC in respect of first and

third child would be too technical. Petitioner is seeking LTC benefit for the first and third child is on the ground that 2nd child being the male member who is aged about 21 years who can independently travel without assistance of the parents. Therefore, there is a reason behind claiming LTC benefit for the first and third child. That apart, statutory rule does not specify that Government servant can claim LTC benefit only for the first and second child and not for the first and third child or second or third child. Thus, reasoning assigned in the impugned orders dated 28.09.2015 and 16.02.2016 (Annexures P6 and P8) are not in terms of the definition of family read with explanation provided in Rules 1988 so much so too technical and highly arbitrary and illegal. Accordingly, orders dated 28.09.2015 and 16.02.2016 (Annexures P6 and P8) are set aside. CWP stands allowed. The petitioner's claim of LTC be settled accordingly within a period of 3 months from today.

06.03.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No