

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.215

CWP-9659-2016
Date of decision : 22.05.2018

Kamlesh and another

..... Petitioners

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. S.P. Chahar, Advocate, for the petitioner.

Mr. Hitesh Pandhit, AAG, Haryana.

SUDHIR MITTAL, J. (Oral)

The petitioners are widow and son of Shyam Sunder, Beldar, who had expired on 04.08.2005 at the age of 39 years. The petitioners sought benefit of the prevailing policy of compassionate assistance and vide letter dated 20.11.2006, the department recommended their case for monthly financial assistance under the policy of the year 2006. Consequently, vide order dated 06.07.2007, monthly financial assistance was granted to petitioner No.1. The family pension already paid, was ordered to be adjusted. Thereafter, on the basis of letter dated 08.06.2007, issued by the Chief Secretary, Haryana, the Engineer in Chief was directed that a fresh option be taken from the petitioners for grant of lump-sum financial assistance under the 2003 policy. Option was sought and given by the petitioner and vide order dated 12.03.2009 (Annexure P-7), monthly financial assistance being paid to the petitioner under the 2006 policy, was withdrawn. The present writ petition has been filed, challenging the said order.

2. Detailed written statement on behalf of the respondents has been filed. Issue of delay and laches has been raised as well as estoppel since the petitioner accepted the option of lump sum financial assistance under the 2003 policy.

3. Learned counsel for the petitioners submits that the clarification issued by the Chief Secretary, Haryana, vide letter dated 08.06.2007, did not amount to modification/amendment of the policy 2006. The policy of 2006 is

clear and unambiguous that pending cases of compassionate assistance be considered under the said policy. Thus, petitioner No.1 was rightly granted monthly financial assistance, under the policy of year 2006 and withdrawal of the benefit on the basis of letter dated 08.06.2007, is illegal.

4. On the other hand, learned State counsel submits that the impugned order is dated 12.03.2009, whereas the writ petition has been listed for the first time on 17.05.2016. Thus, there is a delay of seven years in challenging the impugned order and hence, the writ petition is barred by the principle of delay and laches. On merits, it is submitted that letter dated 08.06.2007, issued by the Chief Secretary, Haryana, makes it abundantly clear that in case the death of the bread-winner had taken place prior to 01.08.2006 and PPO had been issued to the widow before the said date, then the widow would be entitled to financial assistance under the 2003 or 2005 policy.

5. The facts of this case clearly establish that petitioner No.1 felt satisfied with order dated 12.03.2009 as she did not choose to challenge the same within a reasonable period of time. She had been granted a lump-sum financial assistance of Rs.2.5 lacs and she was also drawing family pension. Her act and conduct operates as estoppel and the principle of delay and laches, is squarely attracted. No explanation is forthcoming to explain the long delay of seven years in approaching this Court.

In view of the above, the writ petition is dismissed as barred by delay and laches.

(SUDHIR MITTAL)
JUDGE

22.05.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No