

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 12.07.2018****CWP No.8268 of 2018**

Naresh Kumar

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sudhir Hooda, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner cannot anchor his case on an interim order dated 27.09.2016 passed in RSA No.3576 of 2012 (O&M), when the interim directions have not found their way into the final order dated 30.11.2017. It would be apt to reproduce the interim order dated 27.09.2016, which has been made the focal point for claiming relief of compassionate appointment and then the final order dated 30.11.2017. The same are as follows:

Interim order:

“Matter relates to grant of compassionate appointment. Deceased Sudesh Chand was working as Assistant Lineman in the appellants' organization. He died on 18.8.2004. As on the date of his death, policy relating to compassionate appointment and ex gratia is governed by Rules, 2003. Name of the second respondent was not considered for compassionate appointment for want of vacancy in the year 2004 and when ex-gratia payment was granted, it is learnt that respondent opted only compassionate appointment. Due to non-consideration, he has filed suit before the Trial Court. Trial Court directed to consider the grievance of the second respondent to appoint him on compassionate grounds under Rules, 2003 whereas,

the Appellate Court directed the appellants to consider under Haryana Compassionate Assistance to Dependents of Deceased Government Employees, Rules, 2006. The Appellate Authority's decision is contrary to the decision passed in LPA No.541 of 2012 dated 18.7.2012. LPA decided with reference to Full Court decision passed in CWP No.4303 of 2009 titled Krishna Kumari Vs. State of Haryana decided on 20.4.2012 in which it is held that Rules or instructions applicable at the time of death shall govern the claim of the dependents for grant of compassionate appointment or the other benefits. In the present case, the second respondent's father late Sh. Sudesh Chand died on 18.8.2004. Therefore, as on the date of the death of Sh. Sudesh Chand, 2003 Policy was in vogue. Therefore, the appellants are directed to consider the claim of the second respondent under 2003 Policy for compassionate appointment and place the same on record in the next date of hearing.

List this matter on 02.12.2016.

In the meanwhile, the second respondent is directed to submit a detailed representation to consider the direction.”

Final order:

“This appeal has been filed against the judgment of the appellate court modifying that of the trial court and thereby holding the respondents (widow and son of the deceased) disentitled for compassionate appointment but granting them monthly assistance in terms of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rule, 2006 (for short '*2006 Rules*').

It may be noticed that these benefits had originally been granted to the respondents but had been withdrawn vide order dated 15.01.2008 on the ground that the death had occurred before coming into force of the 2006 Rules. However, in this case the appellant-Nigam had itself offered to the respondents to get benefit under the 2006 Rules. In these circumstances, it would not lie in the mouth of the appellants to claim that the 2006 Rules were not applicable in the case of the respondents.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.”

The petitioner's claim can only be founded on the final order. Under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rule, 2006 (for short 'the 2006 Rules'), compassionate appointment is no longer available and only monetary relief is admissible in terms of the policy. This is what the impugned order passed by the Dakshin Haryana Bijli Vitran Nigam Ltd. (for short 'the Nigam') has done declining the prayer for compassionate appointment and preserving the right to ex-gratia financial assistance of ₹2.5 lakhs to the family of the deceased Government employee.

Since this Court had recorded in the second appeal that the appellant – Nigam had itself offered the respondents to get benefits under the 2006 Rules and, therefore, the Nigam would yet look into the claim of the widow under the 2006 Rules, which may not be restricted to ₹2.5 lakhs, but to payment of monthly salary by the formula prescribed in Rule 6. The Nigam would pass an order taking a decision on whether in the facts and circumstances of this case the claim has to be treated as a pending case to bring it within the conspectus of 2006 Rules. In case, salary has to be given by the formula adopted, ₹2.5 lakhs can be deducted.

With these observations, the petition stands disposed of.

12.07.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No