

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1350 of 2017 (O&M) in
CWP No.17945 of 2010
Date of Decision : 19.03.2018.

State of Haryana and others

... Appellants

Versus

Sushila Rani

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B.S.WALIA

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

B.S.WALIA, J.

1. Intra court-appeal has been filed against order dated 10.03.2017, whereby in addition to a sum of ₹2.5 Lakhs released to the respondent-petitioner vide communication Annexure P-5, dated 24.04.2009, an additional sum of ₹2.5 Lakhs was ordered to be paid to the respondent-petitioner and her son. The State has come up in appeal along with an application seeking condonation of 66 days' delay in filing the appeal *interalia* on the ground that the learned Writ Court doubled the amount of financial assistance from ₹2.5 Lakhs to ₹5 Lakhs despite the respondent-petitioner having received a sum of ₹2.5 Lakhs sanctioned to her and that once the respondent-petitioner had accepted the amount without any protest, it was not open to her to challenge the same and seek compassionate appointment or to get increased financial assistance, that the only prayer in the writ petition was for grant of compassionate appointment and once the same had been declined by the learned Writ Court, there was no occasion to enhance financial assistance.

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2. We have considered the submissions made by learned counsel for the appellants and are of the view that for the reasons recorded hereunder, the appeal must fail.

3. The learned Writ Court by relying upon the decision of this Court in CWP No.696 of 2008, titled Rajesh Kumar versus UHBVN Ltd. and others decided on 03.12.2016, which in terms relies upon the decision of Hon'ble the Supreme Court in State Bank of India and another versus Raj Kumar (2010) 11 SCC 661 held that the rules applicable would be the ones in force as on date of consideration and in the circumstances, the claim of the petitioner for grant of financial assistance would be as per the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006

4. Petitioner's husband having died on 16.11.2005, on said date, Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 were applicable. However, claim of the petitioner for award of financial assistance was sanctioned vide letter Annexure P-5 dated 24.04.2009 on which date Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 were applicable. In view of Rule 6 of Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, the family of a deceased employee could opt for lump sum ex-gratia grant provided under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 or Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005 as the case may be in lieu of monthly financial

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assistance provided under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006. Rule 6 of the Rules 2006 ibid is reproduced as under:-

6. All pending cases of ex-gratia assistance shall be covered under the new rules. The calculation of the period and payment shall be made to such cases from the date of notification of these rules. However, the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006.
5. As per sub-rule (ii), Rule 2 of Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2005, ex-gratia compassionate financial assistance to the family of the deceased is to be paid over and above all service benefits at the rate of ₹5 Lakhs in case where the family of the deceased did not opt for ex-gratia employment. Sub-Rule (ii) of Rule 2 of Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2005 is reproduced as under:-

- ii. ex-gratia compassionate financial assistance to the family of the deceased, over and above all other service benefits, to be paid @ ₹5 lacs, in cases where the family of the deceased does not opt for ex-gratia employment or where no such appointment can be offered within a period of three years from the date of making of an application by the eligible dependant member of the deceased government employee or;
6. In the circumstances, in view of Rule 6 of the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006, which provides that all pending cases would be

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considered under the new rules and the family of the deceased employee could opt for lump sum ex-gratia payment under Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2003 or Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2005 rules, as the case may be, in lieu of monthly financial assistance, provided under Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006 rules, no error can be found with the order of the learned Single Judge directing payment of additional sum of ₹2.5 Lakhs as per Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2005 to the petitioner and her son to be shared equally. Accordingly, finding no merit in the appeal, the same is dismissed. Consequently, the application for condonation of delay in filing the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

(B.S.WALIA)
JUDGE

March 19, 2018
rajesh.k.khurana

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