

LPA No. 1492 of 2018 (O&M)

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

LPA No. 1492 of 2018 (O&M)

Date of decision: 01.10.2018

Sunita

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Vivek Khatri, Advocate
for the appellant.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 16.04.2018, rendered by the learned Single Judge, vide which claim of the appellant seeking employment on compassionate grounds was declined, but she was held entitled to Rs.2.5 lakh as financial assistance under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2003 ('2003 Rules' for short).

The facts that are required to be noticed are limited.

Husband of the appellant, namely Ranbir Singh, was recruited as a Constable in 4th Battalion, Haryana Armed Police, Madhuban, on November 21, 1998. Unfortunately, on the intervening night of June, 3/4, 2000, in an encounter with anti social elements, he succumbed to a gunshot injury. Thus, the appellant moved the respondent authorities to provide a job to her brother-in-law, Karambir Singh, under the ex gratia

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scheme. But her request was declined by the Government, for he was not dependent on the family of the deceased. Subsequently, the appellant having obtained a matriculation certificate from Hindi Sahitya Sammelan Prayag (Allahabad), again moved the respondents on October 09, 2002, to appoint her as a Constable in Haryana Police. For the institution from which she had qualified her matriculation was not recognised for employment by the State of Haryana, her application was accordingly rejected. Whereafter, she filed another representation on May 29, 2003, seeking a Class-IV job, but owing to non-availability of a vacancy, the authorities were constrained to reject her claim. But, vide another representation dated October 29, 2003, she again moved the respondents to award her Rs.2.5 lakh as compassionate financial assistance (CFA), but vide order dated June 02, 2006, even the said representation was rejected by the respondents as in terms of Clause 3 (d) (ii) of the 2003 Rules, the deceased employee had served the Government for less than three years. The decision, the authorities reiterated even vide their communication dated November 5, 2013 (Annexure P-10). That is how, as indicated above, the appellant approached this Court vide a writ petition, referred to above.

Significantly, during the pendency of the writ petition, the authorities, accepting the deceased husband of the appellant as a Martyr, awarded a sum of Rs. 5 lakh to her as special ex gratia grant. And, the learned Single Judge, in reference to the decision of a Division Bench of this Court in **State of Haryana through Commissioner and Secretary, Department of Transport, Haryana, Vs. Sunil Kumar, 2011 (1) RSJ 315**, wherein it was concluded that neither the compassionate appointment nor allowance was contingent on condition of three years of regular service by

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the employee dying in harness, held that there can be no justification to read a requirement in Rule 3 (d) (ii) of 2003 Rules in the manner, namely that three years of service contemplated by the said sub-rule must be after regularization. Thus, besides separate ex gratia grant of Rs. 5 lakh provided by the State, she was also held entitled to be awarded financial assistance, i.e. Rs.2.5 lakh under the 2003 Rules. However, in the given facts and circumstances, it was concluded that her claim for compassionate appointment could not be countenanced, as even otherwise, it was not a constitutionally recognised source of recruitment. For, even the review application made by the appellant was dismissed by the learned Single Judge on 31.8.2018, thus, this appeal.

Having heard learned counsel for the appellant and perused the records, we are of the considered view that present appeal is wholly devoid of merit and is thus liable to be dismissed, for the reasons being assigned hereinafter.

Though unfortunate, husband of the appellant died in the year 2000. For concededly, she was illiterate at the time of his death and was unwilling to do a job, she rather requested the authorities to provide employment to her brother-in-law. The request, as indicated earlier, was declined. Later, she sought appointment for herself as Constable, but since the institution from which she had qualified matriculation was not recognised by the State for employment, her application was rejected on October 09, 2002. Likewise, owing to non-availability of any vacancy, her representation even for a Class IV job was rejected on May 29, 2003. Whereafter, as is made out from the order dated June 02, 2006 (Annexure P-9) at page 61, she, vide application dated October 29, 2003,

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only prayed for awarding Rs. 2.5 lakh as compassionate financial assistance (CFA) under the 2003 Rules. But, as demonstrated above, the respondent authorities, in reference to Clause 3 (d) (ii) of the 2003 Rules, declined her claim, vide order dated June 02, 2006. Ex facie, the appellant reconciled with her fate and accepted the order dated June 02, 2006, which as a result attained finality. She filed a writ petition seven years later, assailing, ostensibly, the order dated November 05, 2013 (Annexure P-10), vide which her claim for ex gratia grant was alleged to have been declined.

Though, the alleged order dated November 5, 2013 (Annexure P-10) was merely a communication from the Director General of Police to the Additional Director General, Madhuban, in response to the office memo dated 17.10.2013, issued by the latter, vide which it was conveyed that claim of the appellant had already been considered and rejected and a photocopy of the letter issued vide office memo dated 10.4.2005 in this regard to the IGP, Gurgaon Range, Gurgaon, was being sent for information. Thus, the letter dated November 5, 2013, could neither be termed as an order declining the claim of the appellant, nor provided any fresh cause of action, so as to justify the gross delay her petition suffered from.

Hence, the argument advanced by learned counsel for the appellant before the learned Single Judge that petition preferred by the appellant did not suffer from any delay, as the order dated June 02, 2006, was assailed in appeal, which was dismissed on November 5, 2013 (Annexure P-10) and immediately thereafter, she filed the writ petition on December 16, 2013, lacks conviction.

A bare analysis of the writ petition filed by the appellant shows that her primary ground was that her claim for ex gratia grant was wrongly

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rejected. Thus, claim as regards providing her employment on compassionate ground was speculative. Even otherwise, more than 18 years have gone by since the death of her husband on 4.6.2000, thus, the very purpose and objective for which such appointments are made has ceased to exist or is non-existent so to say. There cannot be any quarrel with the proposition of law enunciated by the Full Bench of this Court in **Krishna Kumari Vs. State of Haryana and others, 2012 (2) SCT 736**, cited by the learned counsel for the appellant, but in the facts and circumstances of the matter at hands, it neither has any bearing nor advances the claim of the appellant.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

October 01, 2018
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	YES