

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

(213)

CWP-28042-2017

Date of Decision: November 29, 2019

Prem Kumari

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Ms. Safia Gupta, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that the claim of the petitioner for the grant of benefit under the instructions dated 27.11.2014 (Annexure P-1), providing ex-gratia compassionate financial assistance, has been rejected in an arbitrary manner.

The facts as stated in the writ petition are that the petitioner's husband namely Sh. Rajiv Mehta was appointed as a Member of District Consumer Disputes Redressal Forum by the Government of Haryana vide order dated 31.07.2015. While the husband of the petitioner was performing the duties as the Member of District Consumer Disputes Redressal Forum, he unfortunately died on 27.09.2016. After the death of her husband, petitioner raised a claim for the grant of benefit of ex-gratia compassionate financial assistance under the policy dated 27.11.2014 (Annexure P-1) vide which the Government of Haryana had decided to provide ex-gratia compassionate financial assistance to the family of the deceased persons, who were employed in the Government Department, Boards, Corporation/Public undertaking under the Government of Haryana

whether on adhoc basis, daily wage basis or contract basis including the persons working on contract basis through service provider.

The said claim of the petitioner has been declined by the respondents vide order dated 25.07.2017 (annexure P-5) on the ground that the case of the petitioner is not covered under the Government policy dated 27.11.2014 (though wrongly mentioned as 22.11.2017 in the impugned order). The said order dated 25.07.2017 (Annexure P-5) is under challenge in the present writ petition.

Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that as the husband of the petitioner was appointed under the Consumer Protection Act, 1986 and under the Haryana Consumer Protection Rules, 2004, there is no provision for the grant of financial assistance, therefore, the benefit of the instructions dated 27.11.2014 (Annexure P-1) cannot be extended to the petitioner. Further objection has been taken that as the payment was being made to the husband of the petitioner as an honorarium of Rs. 20,000/- per month, the case of the petitioner is not covered on the said ground also, keeping in view instructions dated 27.11.2014 (Annexure P-1).

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only question to be answered by this Court is whether the members working in the District Consumer Disputes Redressal Forum are covered under the instructions dated 27.11.2014 (Annexure P-1) for the grant of ex-gratia compassionate financial assistance.

A bare perusal of the guidelines/instructions which have been issued by the Government of Haryana on 27.11.2014 (Annexure P-1) shows

that the same is applicable to the family of the deceased employee, who is working in the Government department, Board run by the Government of Haryana, Corporation and Public undertaking which come under the Government of Haryana. It is not being denied by the respondents-State that the petitioner was appointed by the Additional Chief Secretary to the Government of Haryana, Department of Food and Supply vide order dated 31.07.2015. Once the appointment of the late husband of the petitioner was done by the Department of Food and Supply, Govt. Of Haryana, it cannot be said that the late husband of the petitioner was not working in any public undertaking, which is under the Government of Haryana. Once the appointing authority of the late husband of the petitioner was the Government of Haryana, the husband of the petitioner is to be treated as the employee of the Government of Haryana though he might have been appointed under a particular Act.

Under the instructions dated 27.11.2014 (Annexure P-1), there is no requirement that even the Rules governing the service shall have a clause or a provision that in case of the death, an employee will be entitled for the financial assistance. Financial assistance, as envisaged in the policy dated 27.11.2014 (Annexure P-1) is to be given to all the employees working with the Government of Haryana, Board being run by the Government of Haryana, Corporation and Public undertaking, which come under the Government of Haryana. The relevant portion of the instructions dated 27.11.2014 (Annexure P-1) is as under:-

“Subject: Policy for providing Compassionate financial assistance to the family of the deceased person working in Government Department/ Boards/ Corporation/ public undertakings under Haryana Government on Adhoc, Daily

Wage, Contract basis including the persons working on contract basis through Service Providing Agency.

Sir/Madam,

I am directed to invite your attention on the subject cited above and to say that there being no policy for providing ex-gratia compassionate financial assistance to the family of the deceased person employed in Government Departments/Boards/Corporations/public undertakings under Haryana Government on Adhoc, Daily Wage, Contract basis including the persons working on contract basis through Service Providing Agency. The State Government has considered this matter and decided to provide financial assistance to the tune of Rs.3.00 lacs to the family of a deceased person who was working in Government Department/Boards/Corporation/public undertakings under Haryana Government on Adhoc, Daily Wage, Contract basis including the persons working on contract basis through Service Providing Agency with the prior approval of the competent authority on the following guidelines:-

(i) These instructions shall come into force with effect from the date of issue of instructions.

*(ii) **Definitions:-** In these rules the context otherwise requires:-*

a) "Appointing authority" means the Head of Department/competent Authority as the case may be, where the deceased person was working.

b) "Compassionate financial assistance" means the financial assistance to the tune of Rs.3.00 lacs, provided as ex-gratia assistance to the completely dependent members of the indigent family of the deceased.

c) "Competent authority" means the Head of the concerned Department/Board/Corporation/Public undertakings where the deceased person was serving.

d) "Deceased Person" means a person who was working in any Government Department/Boards/ Corporation/Public

undertakings under Haryana Government on Adhoc, Daily Wage, Contract basis including the persons working on contract basis through Service Providing Agency at the time of his/her death.

e) "Dependent" means spouse or son/un-married daughter till they attain the age of 25 years. In case of deceased person being un-married; brother/sister not above the age of 35 or parents.

*(f) **Submission of application in the form of undertaking:-** A dependent of the deceased person shall furnish an affidavit/undertakings by giving complete address, proof of dependency over the deceased, list of other family members with relationship and age.*

*(g) **Interpretation:-** If any doubt arises relating to the application, interpretations and scope of these instructions it shall be referred to the Government in the department of General Administration (in General Services-II Branch) whose decision thereon shall be final.*

*(h) **Exemption/Relaxation:-** There shall be no exemption/relaxation of any provision of these instructions.*

2. Whatever required, the department/Board/Corporation/Public Undertaking concerned would move for adequate provisions in their budget under the appropriate head for this purpose every year.

3. This may please be brought to the notice of all concerned for strict compliance in letter and spirit."

The objection which is being taken by the respondents that no rule under the Haryana Consumer Protection Rules, 2004 grants the benefit of financial assistance after the death, cannot take away the right which has accrued under the instructions dated 27.11.2014 (Annexure P-1).

Furthermore, learned counsel for the respondents has failed to bring on record anything to show that even for the Government employees, who are working in the different departments of the Government of

Haryana, the rules governing the service envisage grant of ex-gratia compassionate financial assistance. Once, no rule for the grant of ex-gratia compassionate financial assistance exist in the rules governing the service qua the Government of Haryana employees also, how the exception can be made with regard to the members, who have been appointed under the Consumer Protection Act, 1986. Further, no requirement of a rule governing the service, granting the ex-gratia compassionate financial assistance is envisaged in the instructions dated 27.11.2014 (Annexure P-1), the respondents cannot bring the same into the said instructions so as to deny the benefit of their instructions dated 27.11.2014 to the petitioner.

The second objection, which has been taken by learned counsel for the respondents that the husband of the petitioner was being paid honorarium of Rs.20,000/-. The payment of honorarium cannot also come in the way of the claim of the petitioner for ex-gratia compassionate financial assistance. Once, the petitioner's husband was appointed by the Government of Haryana and was working as a member of District Consumer Disputes Redressal Forum in the State of Haryana, the payment of honorarium is not a valid objection as instructions dated 27.11.2014 (Annexure P-1) does not envisage any exclusion clause for the employees, who are paid honorarium.

In view of the above, once the husband of the petitioner has been appointed by the Government of Haryana under the Department of Food and Supply, petitioner is eligible for the grant of benefit as envisaged under the instructions dated 27.11.2014 (Annexure P-1).

The present writ petition is allowed. Impugned order dated 25.07.2017 (Annexure P-5) is set aside. Let the benefits under the

instructions dated 27.11.2014 (Annexure P-1) for which the petitioner became entitled, after the death of her husband, be released to her within a period of two months from the receipt of certified copy of this order.

November 29, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: Yes