

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

**CWP No.1545 of 2020 (O&M)
Date of Decision :21.01.2020**

Rachna Saini

.....Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Ravinder Malik (Ravi), Advocate for the petitioner.

ARUN PALLI, J.:

The petitioner questions the validity of Rule 6 of Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules 2019 (hereinafter referred to as '2019 Rules') and also prays for a mandamus requiring the respondents to either modify the office order dated 28.09.2017, by extending the period of monthly financial assistance from 27.05.2017 to 31.07.2047 or in the alternative to grant the petitioner compassionate appointment in terms of Rule 7 of 2019 Rules.

Facts that are required to be noticed are limited.

Petitioner's husband namely Dinesh Kumar was appointed as Clerk, in the Education Department and joined as such on 30.04.2012. Unfortunately, he died in a road side accident on 26.05.2017, leaving behind the petitioner and two minor children. For, husband of the petitioner died in harness, she moved the Block Education Officer, Agroha, Hisar (respondent No.4), vide representation dated 15.06.2017 (Annexure P-3) and sought appointment on compassionate grounds. However, vide order dated

28.09.2017, Director, Secondary Education, Haryana (respondent No.2), accorded sanction for payment of monthly financial assistance to the petitioner equal to the pay and other allowances (excluding house rent allowance) that were last drawn by Dinesh Kumar, in terms of the provisions of the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules 2006 (for short '2006 Rules'). Further, for, the deceased had not attained the age of 35 years and was only 28 years of age at the time of death, under Rule 5(1) (a) of the 2nd Rules 2006, the monthly financial assistance was admissible for a period of 15 years i.e. from 27.05.2017 to 26.05.2032. However, subsequently, vide another representation dated 15.01.2019 (Annexure P-5), the petitioner again moved the authorities to either extend the duration of monthly financial assistance till 31.07.2047, i.e. the date her husband would have superannuated or in terms of 2019 Rules, she be given appointment on compassionate grounds. For, the said representation was not responded to the petitioner even served the respondents with a notice dated 10.10.2019. But to no avail. This is how, as indicated above, the petitioner is before this Court.

Learned counsel for the petitioner submits that purpose for which 2006 as also 2019 Rules were framed was to afford financial assistance to the family members of the deceased Government Employees to tide over the sudden crisis resulting from his/her untimely death. However, from an analysis of Rule 5 of 2006 and Rule 6 of 2019 Rules it is apparent that the said objective is completely overlooked. For, the financial assistance extended to the family of a deceased employee is admissible only

for a specified period. Thus, Rule 5 as also Rule 6 *ibid* are apparently arbitrary and violative of Articles 14 and 16 of the Constitution. Therefore, he submits that order dated 28.09.2017, vide which monthly financial assistance was sanctioned to the petitioner is required to be modified by extending its admissibility from 27.05.2017 to 31.07.2047. Further, the said rules were even contrary to the spirit of Article 14 for on the one hand monthly financial assistance being afforded to the family of the deceased was admissible for a limited period, and on the contrary if a member of the family was afforded employment on compassionate ground he/she could serve till the age of superannuation.

Having heard learned counsel for the petitioner and perused the records, we are of the considered view that petition at hands is not only devoid of merit but also an abuse of process, and is thus liable to be dismissed, for the reasons being recorded hitherto below.

Though unfortunate, concededly petitioner's husband died on 26.05.2017. It is not disputed either, that faced with such a crisis, the petitioner sought appointment on compassionate grounds under 2006 Rules. The authorities, vide order dated 28.09.2017, accorded sanction for payment of monthly financial assistance equal to the pay and other allowances (excluding house rent allowance) that were last drawn by the deceased: i.e. Rs.23100 (Basis Pay) + Rs.924 (D.A.) + Rs.500 (Medical Allowance) total Rs.24524/-, under 2006 Rules. Further, in terms of Rule 5(i)(a) of 2006 Rules, which is being referred to hereinafter, for, the deceased had not yet attained the age of 35 years, the benefit of monthly financial assistance was admissible for a period of 15 years from the date of death of the deceased i.e.

27.05.2017 to 26.05.2032:-

“5. Criteria for financial assistance:- (1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim,___

(a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty-five years;”

Ex facie, the petitioner and her family continue to benefit from the financial assistance accorded by the Government since 27.05.2017. And, a period of nearly three years have gone by since then. Thus, the petitioner having availed the benefit of monthly financial assistance under 2006 Rules, the matter stood conclusively concluded in September 2017. The reliefs claimed by the petitioner that authorities be directed to modify the order dated 28.09.2017 (Annexure P-4) and extend thereby the period of monthly financial assistance from 27.05.2017 to 31.07.2047 (till the date of superannuation of the deceased husband of the petitioner) is also not feasible either in the wake of Rule 5 (1) (a) of 2006 Rules *ibid*. Unlike, Rule 6 of 2019 Rules, there is no prayer to quash Rule 5(1)(a) of 2006 Rules being illegal or arbitrary.

Adverting to Rule 7 of 2019 Rules, under which the petitioner claims a right of consideration for appointment on compassionate grounds, it would be significant to notice that it came into being w.e.f. 01.08.2019. *Ex*

facie, 2019 Rules were neither in existence at the time of death of the deceased nor when, upon representation of the petitioner, she was granted monthly financial assistance by the Government. Thus, in the given situation, one wonders as to how the petitioner could stake her claim for appointment under those rules, which are not even remotely attracted in the given facts and circumstances. Thus, we do not even deem it necessary to examine the validity of Rule 6 of 2019 Rules. Apparently, the claim of the petitioner, if any, could only be considered and dealt with under 2006 Rules only that were in vogue at the relevant time. Even otherwise, an analysis of the averments set out in the petition shows that it is bereft of required factual basis and necessary pleadings to question the validity of the said rule. Likewise, on being pointedly asked learned counsel for the petitioner could not refer to anything on record or demonstrate as to how Rule 6 of the 2019 Rules was arbitrary and could be held to be invalid.

Thus, the only and the inevitable conclusion one could reach: the petition besides being devoid of merit apparently, lacks *bona fide* and is speculative in nature.

Dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

21.01.2020

Manoj Bhutani

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No