

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

CWP No. 3246 of 2015
Date of decision : 02.03.2020

Harpal	Versus	Petitioner
HUDA and others		...Respondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Mr. Sarfraj Hussain, Advocate for the petitioner.

 Mr. Jagdish Manchanda, Advocate for respondent No.4.

B.S. Walia, J. (Oral),

1. Prayer in the petition under Article 226/227 of the Constitution of India is for the issuance of a writ of Mandamus for directing the respondents to give appointment to the petitioner under the Ex gratia Scheme on account of death of his father who was working as Pump Operator on 16.07.1992 and thereafter of his mother on 02.09.1994 after her appointment as Peon under ex gratia scheme, and the petitioner being a minor at said point of time.

2. Brief facts of the case leading to the filing of the writ petition are that the petitioner's father, who was serving as Pump Operator, died while in service on 16.07.1992 whereupon the petitioner's mother was given compassionate appointment as peon on 06.08.1993. Unfortunately the petitioners mother also died while in service on 02.09.1994. At that point of time, the petitioner was 12 years of age and attained majority in the year 2000, where after he got married in the year 2004 and earned his livelihood by doing

claims that he was not able to make ends meet to support his family comprising of his wife and two children, therefore, he submitted a representation Annexure P/6 in the year 2013 for compassionate appointment and when the same failed to evince any response, he filed the instant writ petition.

3. Learned counsel for the respondents contends that the petitioner is not entitled to employment, *inter alia*, on the ground of delay and laches as also on account of the fact that the petitioner's deceased mother did not fall within the definition of deceased Govt. employee as given under Clause D of the definition of deceased government employee as given in Rule 3 of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 (hereinafter referred to as the 'Rules') as she had not served the Government for at least three years. Secondly, the term 'Dependant' as given in Rule 3(d) included son till his attaining the age of 25 years whereas the petitioner had applied at the age of 31 years. Relevant extract of Clause of Rule 3(d)(i),(ii) and 3(e)(ii) and (iv) of the Rules is reproduced as under :

“3(d) “deceased Government employee” means a Government employee-

(i) Appointed on regular basis, and not working on daily wages, casual, apprentice, work charged, adhoc, contractual or re employment basis ;

3(d) (ii) who has served the Government for at least 3 years.

(e) “dependant” means-

3(e)(ii) Son (including adopted son) till he attains the age of 25 years subject to the proof of adoption as envisaged in the Hindu Adoption and Maintenance Act, 1956.

(iv) The person who was wholly dependent at the time of his/her death.”

4. Admittedly, the petitioner's mother was given compassionate appointment as peon on 06.08.1993 on the death of her husband on 16.07.1992 where after she died on 02.09.1994 while in service. The petitioner in the year 1994 was 12 years of age. He attained majority in September, 2000 where after he got married in the year 2004 and attained the age of 25 years in the year 2007. Petitioner has two children out of his marriage. The petitioner submitted representation Annexure P/6 only on 09.12.2013 stating that he had no source of income and was facing starvation therefore, the amount on account of GPF, Ex gratia amount with interest as per rules be released to him as also to consider him for compassionate appointment.

5. The object of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, is to assist the family of a deceased employee in tiding over emergency situation resulting from loss of bread earner either by giving ex gratia appointment on compassionate grounds to a member of the family who was "completely dependent" on the deceased employee and in extreme financial distress due to the loss of the deceased i.e. the Government employee dying in harness or ex-gratia compassionate financial assistance to the family of the deceased, where the family of the deceased does not opt for ex-gratia employment.

6. The petitioner's mother who was given compassionate appointment died on 02.09.1994 whereas the petitioner attained the age of 18 years in April, 2000 where after, he earned his livelihood and got married and had two children while working as an auto rickshaw driver and doing other odd jobs. It was only in the year 2013 that the petitioner woke up for the first time and submitted representation for grant of benefits including

object of the rules applicable which provide for ex-gratia appointment/ex-gratia compassionate financial assistance on account of extreme financial distress due to loss of the deceased Govt. employee on which the claimant was dependent.

7. Facts of the case go to show that there was no extreme financial distress on account of the loss of the deceased since not only did the petitioner remain silent for all the years right from date of his attaining the age of majority in the year April, 2000 till submission of representation Annexure P/6 in the year 2013. In between, the petitioner earned his livelihood as auto rickshaw driver, married, raised a family and had two children and it was only in the in the year 2013 i.e. when the petitioner was 31 years of age that he submitted representation Annexure /6.

8. In the circumstances, I do not find any merit in the claim for grant of ex-gratia compassionate appointment or financial assistance to the petitioner. However, the respondents are directed to consider and decide the claim of the petitioner for any terminal benefits on account of death of his mother as prayed for in the representation Annexure P/6 and release the same in accordance with law as per entitlement, if any, within a period of three months from the date of submission of certified copy of order.

March 02, 2020
ps

(B.S. WALIA)
JUDGE

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