

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 18447 of 2020

Date of Decision: 03.03.2021

Papita Devi

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ketan Antil, Advocate
for the petitioner(s).

Mr. Samarth Sagar, Additional Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

Through this writ petition, the petitioner prays for the following
substantive reliefs:-

- a) *Issue of a writ, order or direction especially in the nature of Certiorari to quash the order dated 30.06.2020 (Annexure P-5) and order dated 03.07.2019 (Annexure P-1), whereby the claim of the petitioner seeking employment under Haryana Civil Services (Compassionate Financial Assistance or Compassionate Appointment) Rules, 2019 has been wrongly and illegally rejected.*
- b) *Issue a writ of mandamus to direct the respondent to grant employment to petitioner No.2 as per the provisions of the Haryana Civil Services (Compassionate Financial Assistance or Compassionate*

Appointment) Rules, 2019”.

The writ petitioner is a widow of late Mr. Suresh Chand, who died in harness. Before his death, he worked as a Peon in the Department of Excise and Taxation, Haryana, from 16.05.1992 to 15.12.2017, the day he died. As per the prevalent rules, the petitioner applied for release of financial assistance in terms of Rule 5(1)(c) of the Haryana Compassionate Assistance to the Dependent of Deceased Government Employee Rules, 2006 (hereinafter referred to as “the Rules of 2006”). The same was sanctioned on 03.07.2019 vide Annexure P1. The State of Haryana notified the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 (hereinafter referred to as “the Rules of 2019”), which came into force w.e.f. 01.08.2019. Note-1 of the Rules of 2019 reads as under:

“Note 1: The family of deceased Government employee who died before the date of notification of these rules but have not been sanctioned the compassionate financial assistance by the competent authority due to one reason or the other, they may exercise an option within a period of six months from the date of notification either to avail the benefit under the Haryana Compassionate Assistance to the Dependent of Deceased Government Employee Rules, 2006 or these rules. Option once exercised shall be final”.

The petitioner submitted an application for considering the case of her son for his compassionate appointment vide application dated

16.08.2019. The said application has been declined by the respondents vide order dated 30.06.2020. The petitioner assails the correctness of the aforesaid order.

Learned counsel appearing for the petitioner contends that since the order dated 03.07.2019, sanctioning the financial assistance as per the then prevalent Rules of 2006, was communicated only in the month of August 2019, therefore, the order passed on 30.06.2020 is wrong. He further contends that one of the sons of the petitioner is handicapped and therefore, she is entitled to a suitable direction.

On the other hand, Mr. Samarth Sagar, Additional Advocate General, Haryana, while drawing the attention of the Court to Note-1, as extracted above, contends that the Rules of 2019 have been made applicable w.e.f. 01.08.2019 and as per Note-1, only the family members of the deceased government employee, who died before the date of notification of the Rules of 2019, but have not been sanctioned the compassionate financial assistance by the competent authority, were entitled to exercise their option within a period of six months from the date of the notification. He submits that in the present case, the compassionate financial assistance was sanctioned by the competent authority on 03.07.2019 and therefore, the Rules of 2019 are not applicable.

After having heard the learned counsel for the parties at considerable length, this Court is of the opinion that there is no substance in the writ petition. This Court can feel the pain of a widow, who has lost her husband and one of her sons, as claimed, is also handicapped. However, while deciding a writ petition, this Court cannot overlook the Service Rules

framed as per proviso to Article 309 of the Constitution of India. The Rules provide that the family members of those government employees, who died before the notification of the Rules of 2019, but their compassionate financial assistance has not been sanctioned, only they shall be entitled to apply.

In the present case, the sanction of financial assistance is before the date of enforcement of the Rules of 2019. Therefore, the arguments of learned counsel for the petitioner that since the amount was received after the enforcement of the Rules of 2019 or the order was communicated after its enforcement, therefore, the petitioner is entitled to apply, has no substance because the relevant date is the date of sanction of the compassionate financial assistance as per the Rules of 2006.

In view of the above, no ground is made out to issue a writ, as prayed for. Hence, the writ petition is dismissed.

(Anil Kshetarpal)
Judge

March 03, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No