

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-21636-2020(O & M)

Date of decision:25.02.2021

Meenu Gupta

... Petitioner

Versus

Punjab and Haryana High Court and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Naveen Daryal, Advocate
for the petitioner

Ms.Swati Batra, Advocate
for the respondents.

(The proceedings were conducted through video
conferencing, as per instructions.)

G .S. Sandhawalia , J. (Oral)

CM-3070-2021

Prayer in this application is for placing on record copy of order
dated 18.05.2016 (Annexure A-10).

Application is allowed as prayed for. Annexure A-10 is taken on
record.

CWP-21636-2020

The petitioner seeks grant of ex gratia employment after the death
of her husband as per the Haryana Civil Services (Compassionate Financial
Assistance or Appointment) Rules, 2019 (for short, 'the 2019 Rules').

Challenge has also been made to the order dated 15.05.2020 (Annexure P-5)

whereby respondent No.2 had declined the said claim on the ground that the said 2019 Rules were not in force at the time of death of the deceased and compassionate and financial assistance had already been granted to the petitioner in accordance with Rule 5(1)(b) of Haryana Compassionate Assistance to the dependents of deceased Government Employees Rules, 2006 (for short, 'the 2006 Rules).

The benefit of financial assistance, which was granted by this Court to the petitioner has now been placed on record as Annexure A-10. A perusal of the same would go to show that financial assistance had been granted by the Hon'ble Acting Chief Justice, which was equivalent to the pay and allowances that were last drawn by her husband for a period of twelve years or till the date the employee would have retired on attaining the age of superannuation, whichever is less, in accordance with the Rules 2006.

Learned counsel for the petitioner has vehemently submitted that under Note 1 of the 2019 Rules, option is to be taken as such from the family of the deceased, who died on 25.02.2016 before the notification of the 2019 Rules and therefore, prays for the relief that now the family is entitled for a benefit of compassionate appointment.

Learned counsel for the respondents has opposed the same on the ground that on account of the sanction dated 18.05.2016 (Annexure A-10) for financial assistance, the said Note would not come into play and it would be

only in cases where the compassionate financial assistance has not been sanctioned for one reason or the other and option could be given which would be final.

The relevant portion of Rules 2019 reads as under:

xx xx xx xxx

3. *Save as otherwise provided, these rules shall be applicable to the eligible family member(s) of a Government employee working on regular basis and All India Service Officers who disappears or dies while in service including death by suicide.*

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 Departments of Deceased Government Employees Rules, 2006, or these rules. Option once exercised shall be final.

Thus, from the reading of the above said note, it is clear that the petitioner has already been given the benefits of financial assistance scheme as per 2006 Rules at the time of death of her husband and has been the beneficiary of the same till the rules were repealed on 02.08.2019 and new rules came into force. As per the repeal provision of Section 43(2), all things done or action taken shall be deemed to have been done or taken under Rules

The said Rules 2019 would not have retrospective effect as has been rightly submitted by learned counsel for the respondents and resultantly all cases which have been settled under Rules 2006, would have to be necessarily reopened if the argument of the counsel is accepted. Thus, there is no merit in the present case.

In view of the above, the writ petition stands dismissed.

25.02.2021*neenu***(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No