

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

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**CWP No.25182 of 2021
Decided on : 13.12.2021**

Birmati @ Virmati & another	Versus	... Petitioners
State of Haryana and others		... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr.Gunjan Mehta, Advocate, for the petitioners.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India is to the order dated 29.12.2020 (Annexure P-9) whereby respondent No.3 had rejected the claim of the petitioners which was raised vide representation dated 05.09.2019 (Annexure P-6).

The claim is based on the ground that the same is in utter derogation of the directions issued by this Court on 24.07.2020 (Annexure P-8) in a petition filed by the petitioners bearing CWP-10520-2020, directing respondent No.2/competent authority to decide the claim raised by the petitioners in their representation.

Notice of motion.

Ms.Palika Monga, DAG, Haryana accepts notice on behalf of the State.

A perusal of the order dated 29.12.2020 would go on to show that the speaking order had been passed by respondent No.3 whereas directions had specifically been issued on an earlier occasion to respondent No.2/competent authority to decide the issue. A perusal of Rule 42 of the Haryana Civil Services (Compassionate Financial Assistance or Appointment)

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Rules, 2019 would go on to show that the Government in a General Administration Department has to be satisfied where operation of the rules causes any hardship. Relevant portion of the rule reads as under:

“42. xxxx xxxx xxxx

Note 2- Where the Government in the General Administration Department is satisfied that the operation of any of these rules regulating the conditions of service of Government employees, causes undue hardship in any particular case, it may by order dispense with or relax the requirements of that rule to such extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner.”

Inspite of the above specific provisions in Note-2 to Rule 42, respondent No.3 the Executive Engineer has been allowed to exercise this power, which in the opinion of this Court, was uncalled for. Accordingly, order dated 29.12.2020 is quashed. Respondent No.2 is directed to take a decision on the said issue as directed earlier on 24.07.2020 (Annexure P-8), within a period of 3 months from the receipt of the certified copy of this order.

Writ petition stands disposed of in the above-said terms.

(G.S. SANDHAWALIA)
JUDGE

December 13, 2021
Sailesh

(VIKAS SURI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No