

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

104

CWP-6808-2020

Date of Decision: 11.10.2022

Rekha Devi

..... Petitioner

Versus

State of Haryana & others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. Vishal Sodhi, Advocate, for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India is to Note-1 of Rule 3 of the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 (hereinafter called '2019 Rules') issued vide notification dated 02.08.2019 (Annexure P-6).

Challenge has been laid on the ground that family of the deceased Government employee who died after the date of notification of 2019 Rules and those who have not been sanctioned the compassionate financial assistance will have liberty to exercise an option within a period of 6 months from the date of the notification for compassionate appointment.

It is the case of the petitioner that the husband of the petitioner, the Government employee had died on 14.03.2018 while serving as Assistant Sub-Inspector. In terms of Rule 5(1) of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (hereinafter called '2006 Rules'), financial assistance for 11 years 17 days till 31.03.2029 i.e. the date of retirement of the deceased, was granted to the widow in the event of her not remarrying or expiring. The condition was that the widow would not get pension during the period of drawal of the

monthly financial assistance under the new scheme. Challenge has thus been

made that vide the new 2019 Rules, consideration to apply for compassionate appointment has been taken away from persons who have already been granted the benefit of financial assistance.

Counsel has vehemently submitted that on an earlier occasion also by policies prior to the 2006 Rules, there was an option to seek compassionate appointment and therefore, the action of the State is challenged.

We are of the considered opinion that the said challenge has already been answered by the Full Bench of this Court in **Krishna Kumari Vs. State of Haryana & others 2012 (2) SCT 736**. The issue before the Full Bench was as to whether the Rules in operation at the time of death of the employee would be the Rules applicable or the date of consideration by the appropriate authority, as such. Reference was accordingly answered by holding that the object of the policy was to rescue the family from sudden event plunging it into penury and therefore, the date of death was the relevant date. The Special Leave Petition filed by the State of Haryana was dismissed but question of law raised was kept open to be agitated in an appropriate case.

In our considered opinion also as per settled proposition of law as laid down in **Umesh Kumar Nagpal Vs. State of Haryana & others (1994) 4 SCC 138**, employment by way of compassionate appointment is an exception to the general rule. The whole purpose is only to ensure that the family is not reduced to a state of penury due to the sudden death of the bread-winner.

It is not disputed that on account of death, the State, keeping in view the 2006 Rules which were in force, granted financial assistance which is to the tune of the last pay drawn when the employee would have been in

service vide order dated 25.05.2018 (Annexure P-1) and the petitioner, the wife of the deceased is beneficiary of the same and thus, is protected to that extent that the family is not adversely affected.

Merely on account of introduction of the new Rules on 02.08.2019 which is obviously with a prospective effect, challenge could not be raised on the ground that there was a window left open for the persons whose case have not been sanctioned. The State has acted diligently within a period of 2 months in the present case, fulfilling the purpose of the policy and in such circumstances we are of the considered opinion that challenge to the said policy would open a Pandora's Box as all the cases which have been finalized and persons who have benefitted by the grant of financial assistance would clamor for compassionate appointment. Keeping in view the fact that it is only an exception for process of recruitment and there is no legal vested right, we are of the considered opinion that challenge to the same is without any basis.

In view of the above discussion, the present writ petition is dismissed in limine.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

11.10.2022
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No