

232

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

CWP-14277-2019 (O&M)

Date of Decision: 07.11.2022

Rajni and othersPetitioners

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Petitioner No.1 in person.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to grant compassionate financial assistance to the petitioners, being dependents of deceased Govt. employee in view of Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006.

2. Pledged case of the petitioners is that the husband of petitioner No.1 and father of petitioners No.2 to 4, namely, Anil Kumar son of Sh. Phool Chand was working as Boxing Coach with District Sports and Youth Program Officer, Panchkula and was posted at Tau Devi Lal Stadium, Panchkula. He had expired on 22.01.2018 while in service. Petitioner No.1 applied for the grant of ex-gratia benefits, being widow of Late Sh. Anil Kumar, under Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 along with all necessary

documents, well within time, but the said application dated 05.02.2018 (Annexure P-2) is still pending with the respondents and they are taking no action on it. Further a number of similarly situated beneficiaries have been granted compassionate financial assistance, from time to time, but the petitioners' claim has not been accepted by the respondents till date.

3. Stand taken by the respondents in reply dated 08.09.2021 which is already on record, is that late Anil Kumar was married to Smt. Sharda Rani (first wife) on 17.06.1990. Out of this wedlock, a daughter, namely, Ms. Shweta was born. The first marriage of late Anil Kumar and Smt. Sharda was dissolved by way of decree of divorce dated 05.04.1995 (Annexure R-2). Said Smt. Sharda Rani and her daughter Ms. Shweta were granted maintenance in proceedings instituted by them under Section 125 Cr.P.C. to the extent of Rs.500/- each by a Court of competent jurisdiction. This amount of maintenance was later enhanced to Rs.2500/- per month. Respondent No.3-District Sports and Youth Affairs Officer, Panchkula started making deductions of an amount of Rs.2500/- per month from the salary of late Anil Kumar till date of his death i.e. 22.01.2018 and disbursed the same to Smt. Sharda Rani and Ms. Shweta Rani accordingly.

3.1. It is further averred in the reply that as per office report, late Anil Kumar remarried petitioner No.1 Smt. Rajni in the year 2001. Out of this wedlock, three daughters, namely, Ms. Neha, Ms. Sneha and Ms. Saneh (petitioners No.2 to 4 herein) were born. Some dispute arose between late Anil Kumar and Smt. Rajni (petitioner No.1) and she also filed petition under Section 125 Cr.P.C. for maintenance. Pursuant to order dated 18.12.2015 (Annexure R-4) passed by learned Sub Divisional Judicial Magistrate, Safidon, District Sports & Youth Affairs Officer, Panchkula and Gurugram started making deduction of Rs.13,600/- per month from the salary of late Anil Kumar as maintenance amount and disbursed the same to petitioner No.1 till the date of death of said Anil Kumar.

3.2. It is further asserted in the reply that there are eight claimants, who are claiming the pensionary benefits of late Anil Kumar. As per Rule 4 of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, an eligible family member of the deceased Government employee shall make an application in Form A (Annexure R-6) for compassionate financial assistance. Although petitioner No.1 had submitted an application dated 05.02.2018 (Annexure P-2) for releasing all the service benefits of late Anil Kumar, along with ex gratia benefits but she has not submitted any application in Form A as per rules.

3.3. It is further submitted in the reply that late Anil Kumar had allegedly executed a registered Will dated 03.10.2016 (Annexure

R-1) in which he had bequeathed his rights of pensionary benefits in favour of Ms. Neelam Chauhan (sister of late Anil Kumar). The said Will is subjected to issuance of probate as well as succession certificate. The probate proceedings are still pending but petitioners herein chose not to contest the same.

4. Lawyers are abstaining from work. Having perused the contents of the petition and reply appended therewith, I am of the view that mere non-submission of application in Form A would not *per se* disentitle the petitioners to claim compassionate financial assistance. Further, a bare reading of Sub Rules 9, 10(A) and 10(B) of the Haryana Civil Services (Pension) Rules, 2016 (for short 'Rules of 2016') makes it abundantly clear that for death-cum-retirement gratuity the wife and children of the deceased have a preferential claim vis-à-vis dependent unmarried/widowed/divorced sisters and for family pension also the wife and children of the deceased have a preferential claim vis-à-vis unmarried physically disabled sibling, who were wholly dependent on the deceased employee in his lifetime. As per Note of Rule 45 of Chapter VII of Rules of 2016, in case of valid nomination available in the record of the employee, the Succession Certificate or Will do not constitute any legal right to claim the benefits of Death-cum-Retirement Gratuity. Concededly, as per records, there is a valid nomination in name of Ms. Neha (petitioner No.2) daughter of late Anil Kumar available with the office of Accountant General, Haryana for General Provident Fund account. Given the fact that probate proceedings are pending, the

family pension and other benefits are to be paid to the family of deceased employee as per their preferential rights provided in the Rules of 2016. The issue with regard to probate proceedings is left open to be decided by the Court of competent jurisdiction in accordance with law, without being influenced by the observations made herein above.

5. In the premise, the petition is disposed of with a direction to respondent No.2 to consider the petitioners' claim and pass an administrative order as per the applicable provisions of the 2016 Rules *ibid*. Let the needful be done at the earliest but in any case not later than 2 months.

6. Pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

November 07, 2022

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No