IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(121) **CWP-15482-2022**
Date of Decision : July 20, 2022

Birmati **.. Petitioner**

Versus

State of Haryana and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pardeep Solath, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioner is for setting aside the order dated 01.06.2022 (Annexure P-1) by which, the prayer of the petitioner for the grant of financial assistance as available under notification dated 02.08.2019, has been declined.

As per the facts mentioned in the petition, son of the petitioner namely Anil Kumar, who was working as a Clerk with the Transport Department Haryana, unfortunately died on 23.02.2022. At the time of the death of Anil Kumar, only two legal heirs of the deceased Anil Kumar were surviving namely the petitioner i.e. mother and the elder brother of Anil Kumar namely Sunil Kumar. After the death, the petitioner applied for the grant of compassionate assistance under the notification dated 02.08.2019, which claim of the petitioner has been declined by the respondents by passing impugned order dated 01.06.2022, a copy of which has been appended as Annexure P-1 with this petition. The said order Annexure P-1 is under challenge in the present petition.

Learned counsel for the petitioner argues that the ground which has been taken by the respondents to decline the benefit is not a valid ground as, the family pension, which is being received by the petitioner in respect of the service rendered by her late husband, cannot be treated as income so as to be taken into consideration for adjudging the admissibility of the petitioner as envisaged under Rule 5 (1) (f) (vi) of the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 (hereinafter referred as '2019 Rules'). Learned counsel for the petitioner further argues that the family pension being received by the petitioner on account of the service rendered by her late husband, does not have any co-relation for the grant of benefit of compassionate financial assistance, hence, the same can be treated as her income so as to deny her the benefit under 2019 Rules.

Before adjudicating upon the plea of the petitioner, the relevant Rule which gives the entitlement in respect of the dependent parents to claim financial assistance needs to be reproduced. Rule 5 (1) (f) (vi) of 2019 Rules is as under:-

> " *(vi) failing (i) to (v) above, parents who were wholly dependent on the Government employee when he/she was alive provided their present combined income is less than the minimum family pension, prescribed from time to time, plus dearness relief thereon."*

A bare perusal of the above would show that in case there is no other surviving legal heir, the parents, who were dependent upon the deceased, have been made eligible to claim the financial assistance subject to the fact that the combine income of the parents is less than minimum of the family pension prescribed from time to time along with dearness allowance.

In the present case, the claim of the petitioner has been rejected by the respondents on the ground that the petitioner is getting Rs.12,520/- as family pension in respect of the service rendered by her late husband, which is more than minimum family pension fixed by the Government of Haryana along with the dearness allowance.

Once the clause iv of the notification dated 02.08.2019 is not under challenge, same has to be interpreted to mean that if parents of the deceased have more income than the minimum of the family pension prescribed by the Government of Haryana, then they cannot be treated as a dependent upon the deceased so as to claim the compassionate financial assistance.

In respect of the argument of the learned counsel for the petitioner that family pension being received by the petitioner cannot be treated as income, by no strech of imagination, it can be said that family pension being received by the petitioner is not her income. Finances being received by the petitioner in the shape of family pension have to be treated as her income. No valid ground has been raised before this Court to show that family pension received by the petitioner is to be excluded either under any rule governing the grant of compassionate financial assistance or under the settled principle of law while computing the income of the petitioner so as to adjudge her eligibility for the grant of compassionate financial assistance, hence, the argument of the learned counsel for the petitioner cannot be accepted, being not covered vide any rules or settled principle of law.

Learned counsel for the petitioner argues that the entitlement of the petitioner to claim the benefit arises from Rule 22 of 2019 Rules.

Learned counsel for the petitioner argues that the petitioner is eligible as per Rule 22 of the 2019 Rules. In order to adjudge the said plea, Rule 22 of 2019 Rules is reproduced hereunder:-

> " *22. (1) (a) where both husband and wife are employees of a department or an Organization under Haryana Government; or*
>
> *(b) the spouse is an employee of other Government; or*
>
> *(c) the spouse is a pensioner of Haryana or any other Government,*
>
> *and both or either of them are/is governed by the provisions of these rules, the compassionate financial assistance in respect of deceased Government employee of Haryana shall be admissible to the eligible family member of the deceased or missing Government employee. In the event of death or inteligibility of surviving spouse before the completion of prescribed period, the compeassionate financial assistance shall be payable to the next eligible family member in addition to family pension, if any, if respect of deceased pensioner simultaneously.*
>
> *(2) In the event of death of both husband and wife, referred to sub-rule 1 (a) above, compassionate financial assistance for both deceased Government employees shall be admissible to the eligible family member(s). However, for determination of the total emoluments for compassionate financial assistance (excluding compensatory allowances) in respect of both deceased Government employees shall not exceed the maximum of the highest pay scale of state services or as prescribed from time to time."*

Present Rules only deals with a situation where both husband

and wife are in service and either of the spouse is claiming compassionate financial assistance. The said Rule does not deal with the grant of compassionate financial assistance available to the parents of the deceased employee.

The reliance being placed by the petitioner on Rule 22 is totally misplaced in the facts and circumstances of the present case.

Keeping in view the above, no interference is called for in the impugned order passed by the respondents dated 01.06.2022 (Annexure P-1) declining the benefit of compassionate assistance to the petitioner, who is claiming the same being a dependent.

It is clarified that the present order is only passed qua the entitlement of the petitioner to claim the compassionate assistance. This order does not have any bearing with regard to the claim of the petitioner on the family pension in case, the petitioner raises the said claim. The claim of family pension, if raised by the petitioner, be dealt with in accordance with law relating to the grant of family pension independent of the present order.

The present writ petition is dismissed in above terms.

July 20, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes