

CWP-18092-2021

Date of decision : January 12, 2022

Reena

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.N. Sharma, Advocate for the petitioner.

Mr. Vishal Singh Chauhan, Advocate for the respondents.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Petitioner seeks a direction to the respondents to afford appointment on compassionate basis to her after the death of her husband Ramesh Kumar, who was serving the department as Assistant Lineman. It is stated that petitioner's husband was appointed as Assistant Lineman on 29.10.2012 with the respondent – department on regular basis. He, however, died on 14.08.2015 while in service. It is stated that petitioner approached the authorities for appointment on compassionate basis but she was afforded financial assistance. Sum of Rs. 8,31,920/- and Rs.5,56,520/- was released on 18.02.2016.

Learned counsel for the petitioner submits that notification dated 02.08.2019 was subsequently issued by the Government of Haryana promulgating Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019, for grant of Compassionate Financial Assistance or Compassionate appointment to dependent family members of a Government employee, who dies

or disappears while in service. It is submitted that petitioner's husband had died due to electrocution in the line of his duty. Petitioner, it is submitted, is the only adult Class-1 legal heir of the deceased - Ramesh Kumar and two minor children to look after. Apart from the family pension, petitioner has no other source of income or livelihood. Reliance is placed on the abovesaid Rules promulgated in 2019, to submit that petitioner should be afforded appointment on compassionate grounds. It is submitted that financial benefits, which the petitioner has received, shall be returned immediately in case service is afforded to her.

Though notice of motion had not been issued in this matter, learned counsel for the respondents had been asked by a Co-ordinate Bench to assist the Court in this matter.

Heard learned counsel for the parties and have gone through the file.

It is an admitted position that petitioner's husband, who was working as Assistant Lineman with the respondent – Department, passed away on 14.08.2015 while in service. Petitioner admittedly received financial assistance as was available under the applicable Rules at that particular time. With the abovesaid Rules of 2019 coming into force, petitioner has staked a claim for appointment on compassionate basis. It is specifically provided in Rule 3, Note 1 of Haryana Civil Services (Compassionate Financial Assistance or Appointment), Rules 2019 (for short – '2019 Rules') that family of the deceased Government employee, who had died before the date of notification of the Rules but has not been sanctioned the compassionate financial assistance by the competent authority for one reason or the other, may exercise option within a period of six months from the date of notification for either availing the benefit under the Haryana Compassionate Assistance to the Departments of Deceased Government

Employees Rules, 2006 or these rules. Furthermore, option once exercised shall be final. It is a matter of record that petitioner had duly been afforded financial assistance under the applicable Rules in February, 2016. Therefore, to say that another opportunity should now be afforded to her to seek appointment on compassionate basis is not justified. It is a settled position of law that appointment on compassionate basis is not an alternate mode of recruitment but is a measure to help the family of the deceased employee, which may be left in penury or destitution, on account of the employee's untimely death. Learned counsel for the respondents has referred to Rule 4 which provides for a condition of completion of five years of service by the deceased on regular basis before the family member can be considered for appointment on compassionate basis, to submit that petitioner's claim cannot be considered in any manner as petitioner's husband had admittedly not completed such period. Be that as it may, there is in fact no necessity for delving in this aspect at all as in my considered opinion the 2019 Rules, do not provide for any kind of a re-look or revisit of settled claims. Such an interpretation shall lead to an extremely anomalous situation. Petitioner's claim once having been finalized in 2016 cannot be reopened again as is argued. It is not open to the petitioner to re-agitate the matter once over. Learned counsel for the petitioner is unable to point out any ground which calls for interference.

No other argument has been raised.

Present writ petition is dismissed with no order as to costs.

January 12, 2022
rts

(LISA GILL)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No