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

(208) **CWP No. 408 of 2016**
Date of Decision : 06.05.2022

Rajni Devi
...Petitioner

Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harish Mehla, Advocate for the petitioner.

Mr. Raman Kumar Sharma, Addl. Advocate General, Haryana.

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Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer of the petitioner is for quashing of order dated 27.06.2012 (Annexure P-1) by which, the petitioner has been denied a lump-sum amount of ₹5 lacs as being claimed by the petitioner under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employee Rules, 2006 (hereinafter referred to as '2006 Rules').

The facts as mentioned in the petition are that the husband of the petitioner, namely, Gaje Singh was employed as a Driver with the respondent-department and while in service, he died on 07.11.2009. Gaje Singh was to attain the age of superannuation on 31.12.2009 and after the death, petitioner claimed benefits under the 2006 Rules, which were applicable and were in operation at the time of the death of petitioner's husband.

Keeping in view the request made by the petitioner, she was given a sum of ₹26,880/- i.e. the salary from the date of death till the said Gaje Singh would have attained the age of superannuation. Not feeling satisfied, the petitioner approached the Civil Court for the grant of benefits under the 2006 Rules to the tune of ₹5 lacs as lump-sum ex-gratia amount. While declining the prayer of the petitioner that 2005 Rules are applicable, it was held by the Civil Court that the claim of the petitioner is to be considered under the 2006 Rules and directed the petitioner to approach the respondents by filing appropriate representation in case, any of the benefit under the 2006 Rules is yet to be extended to her.

Thereafter, petitioner filed a representation claiming a sum of ₹5 lacs as lump-sum financial assistance, which request has been rejected by the respondents by the impugned order dated 27.06.2012 (Annexure P-1), which order is under challenge in the present writ petition.

After notice of motion, the respondents have filed the reply, wherein, they have stated that as the husband of the petitioner died in the year 2009, 2006 Rules will be applicable as in 2006 Rules, there is no provision for grant of lump-sum amount of ₹5 lacs as being claimed by the petitioner, as the same was only available under 2005 Rules, which rules already stand superseded in the year 2006, much prior to the death of the husband of the petitioner hence, the claim of the petitioner is covered under Rule 5(1)(c), which has been implemented and no further payment is to be made.

Learned counsel for the petitioner rebut the argument of learned State counsel by placing reliance upon Rule 6 of 2006 Rules to contend that the cases, which were pending, the claimant has an option to claim the benefit under 2005 Rules or the 2006 Rules, which are beneficial to her and, therefore, petitioner is entitled for the grant of ₹5 lacs as lump-sum ex-gratia amount, which was provided to the family of the deceased employee under 2005 Rules.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a settled principle of law that the Rules, which are in force at the time of death of an employee, are to be made applicable for considering the claim for the grant of ex-gratia financial assistance. It is a conceded position that 2006 Rules were in force at the time of death of her husband in November, 2009. As per 2006 Rules, there is no provision of lump-sum ex-gratia amount of ₹5 lacs as the same was only envisaged in 2005 Rules, which Rules stood superseded by the Notification dated 01.08.2006 (Annexure P-3). That being so, the claim of the petitioner of sum of ₹5 lacs as lump-sum ex-gratia amount is totally erroneous and beyond her entitlement. The claim of the petitioner can only be considered under 2006 Rules and as the late husband of the petitioner was above 48 years of age, Rule 5(1)(c) will be applicable, which is as under :-

> *"Rule 5(1)(c)- for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty0eight years."*

Under the said Rule, two months' salary has already been paid to the petitioner, which was up to the date of retirement of the deceased employee.

The reliance of the petitioner under Clause 6 of 2006 Rules is also erroneous. The said Rule 6 is as under :-

> *"6. Pending cases :- All pending cases of ex-gratia assistance shall be covered under the new rules. The calculation of the period and payment shall be made to such cases from the date of notification of these rules. However, the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006."*

A bare perusal of the above would shows that the same would be applicable only in respect of the employees, who died during the operation of 2005 Rules and their claims were pending even when 2006 Rules has come into operation. The Rule 6 does not envisage that the claimants whose claim arose after coming in operation of 2006 Rules, also have an option to claim benefits under 2005 Rules, which stand superseded with the coming in operation of 2006 Rules. Therefore, the claim, which is being made by the petitioner, based upon Rule 6 of 2006 Rules, is not made out and is by mis-interpreting the same.

No ground is made out to grant the petitioner the benefit as being claimed in the present petition.

Dismissed.

May 06, 2022 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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