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

213

CWP-880-2017

Date of decision : 05.05.2022

Rajesh Kumar & another

... Petitioners

Versus

State of Haryana & others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Mohnish Sharma, Advocate for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Vishal Garg, Advocate for the respondents.

Anupinder Singh Grewal, J. (Oral)

The petitioners have challenged the office order/memo No.CH-10/UH/PEN/E-641 dated 20.07.2016 (Annexure P-7) whereby option has been sought for release of ex-gratia amount. Petitioner No.1 has also sought a direction to the respondents to offer him appointment on compassionate ground.

Learned counsel for the petitioners submits that the father of the petitioner No.1, who was working as Assistant Foreman, had expired on 11.08.2002. Petitioner No.1 had applied for appointment on compassionate ground on 18.09.2002. The policy issued by the State Government on 08.05.1995 (Annexure P-1) providing for compassionate appointment to the legal heirs of the deceased employee was applicable at the time of the death of

the father of petitioner No.1 and, therefore, his case ought to have been considered in terms thereof. Earlier dispute had been raised with regard to the legal heirs inasmuch as another lady, who claimed to be the second wife of the deceased, had sought the retiral dues. The dispute had later been resolved and petitioner No.2, who is the first wife of the deceased, had settled the matter with the other lady. Succession certificate was issued in favour of petitioner No.2. He further submits that the respondents are denying the right of the petitioners in terms of 1995 policy by stating that the compensation of ₹2.50 lacs had been paid to petitioner No.2 in terms of the policy issued in the year 2006. He, however, submits that this amount has not been disbursed to petitioner No.2. He has relied upon the judgment in the case of **Neeraj Malik vs. State of Haryana, 2007 (1) RSJ 235** wherein it has been held that the policy applicable at the time of death of the employee would govern the application for compassionate appointment.

This Court by order dated 24.03.2022 had directed the counsel for the respondents to seek instructions as to whether the amount of Rs.2.5 lacs has actually been disbursed to petitioner No.2.

Learned counsel for the respondents submits that this amount has not been disbursed to petitioner No.2. He, however, submits that although petitioner No.1 had applied for compassionate appointment on 18.09.2022 but as there was a dispute with regard to succession as another lady was claiming to be the second wife of the deceased, had applied for the retiral benefits. The matter had been resolved in the year 2009 but the petitioner has preferred this petition in the year 2017. He, therefore, submits that the petition should not be

allowed at this belated stage.

Heard.

The father of petitioner No.1, who was working as Assistant Foreman, had expired on 11.08.2002. He had applied for compassionate appointment on 18.09.2002. The claim of the petitioners could not be settled as the dispute with regard to succession had been raised. A perusal of the material on record indicates that the case of the petitioner for compassionate appointment had not been rejected by the respondents at any stage. The respondents, on 20.07.2016 (Annexure P-7) had issued a communication granting compensation of Rs.2.5 lacs to petitioner No.2 in terms of the ex-gratia rules, 2006 which has not been disbursed to her.

The father of petitioner No.1 had expired in the year 2002 and petitioner No.1 had also applied for compassionate appointment in that year. The policy dated 08.05.1995 (Annexure P-1) was in operation at that time and it had also been clarified on 19.11.2001 vide Annexure P-2. It has been held by the Division Bench of this Court in the case of **Neeraj Malik versus State of Haryana (supra)** that the policy which was applicable at the time of the death of an employee would be the policy which would govern the case of the legal representatives for compassionate appointment. Petitioner No.1 had applied for compassionate appointment immediately after the death of his father. The application had remained pending and an order granted ex-gratia amount of Rs.2.5 lacs was passed only in the year 2016. This petition had been preferred immediately thereafter in the year 2017. Therefore, I am of the considered view that the petition would not be debarred by delay and latches.

Consequently, the petition is allowed and the impugned memo (Annexure P-7) is set aside. Respondent No.2 would consider petitioner No.1 for compassionate appointment in terms of the policy dated 08.05.1995(Annexure P-1) and shall pass an appropriate order within a period of one month from the date of receipt of certified copy of this order.

(ANUPINDER SINGH GREWAL)
JUDGE

May 05, 2022
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No