

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

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**LPA-2063-2017 (O&M)
Decided on : 16.05.2022**

State of Haryana and others

.....Appellants

Versus

Shankar Singh

.....Respondent

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. Rajesh Gaur, Addl. AG, Haryana
for the appellants.

Mr. K.S. Banyana, Advocate for the respondent.

G.S. Sandhawalia, J. (Oral)

CM-4514-LPA-2017

Application for condonation of delay of 152 days in filing the appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the official.

CM stands disposed of.

LPA-2063-2017 (O&M)

Present letters patent appeal is directed against the order dated 03.03.2017 passed by learned Single Judge in **CWP No.19316 of 2009** filed by the respondent herein.

Vide the impugned order, the learned Single Judge had directed the State to consider the case of the respondent for ex-gratia compensation as per the 2006 policy. The amount was to be payable alongwith interest @ 8% per annum from the date of rejection of his case i.e. 16.09.2008 within a period of 3 months from the date of receipt of a certified copy of the order, failing which the interest element was to run @ 12% per annum.

The learned Single Judge while granting the said relief noticed that vide order dated 16.09.2008 (Annexure P-4) the case of the writ petitioner had been rejected on the ground that there is no provision for appointment under the ex-gratia scheme as per Haryana Government

notification dated 01.08.2006 and while denying the relief of compassionate appointment came to the conclusion that the case of the petitioner had been kept open for consideration in view of the practice prevalent in the State of Haryana, since at the time of the death of his father on 14.12.1995, the petitioner was only 6 years old. The requisite claim had been made by him in the year 2008 on attaining of the majority. The Court thus was of the considered opinion that the case was still pending and, therefore, the petitioner was eligible for consideration under the 2006 policy.

The matter is now covered by the judgment of the Apex Court passed in **Civil Appeal No.2144 of 2016 'Haryana Vidyut Prasaran Nigam Ltd. & others Vs. Kelo Devi & another'** decided on 13.02.2020, wherein all three schemes of the State Government, which had been issued in the year 2003, 2005 and 2006 were subject matter of consideration. Resultantly, it was held that all pending cases have to be dealt with under Rule 6 and 7. Relevant portion of the said judgment reads as under:-

“12. The aforesaid clause thus gives an option to be governed by the earlier Rules or the latter Rules for the purposes of ex-gratia payment alone. Thus, if a case is covered by Rules of 2003, the beneficiaries may claim under those Rules for ex gratia payment or under 2006 Rules for ex-gratia payment and the same position would prevail qua 2005 Rules. Needless to add here that if the benefit has already been claimed and granted under the earlier Rules, then that aspect cannot be revisited if the new Rules have come into force.

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14. In our view the aforesaid Scheme is quite clear i.e. insofar as pending cases are concerned where benefit has not been taken under the earlier Schemes, those applications can be dealt with qua ex gratia payment under Rules of 2003 or 2005 or the current

Rules of 2006 at the option of claimants.

15. Insofar as the facts of the present case are concerned, the application for appointment on compassionate grounds was made in the year 2005 but the request was rejected on 10th August, 2006, after the new policy had come into force on 3rd August, 2006. The operative portion of the impugned judgment dated 7th November, 2012, referring to the plain language of Rule 6 of 2006 granted the benefit under those Rules. On a special leave petition being preferred before this Court, the operation of the impugned judgment was stayed on 18th March, 2013 but an interim order was passed that the case of the son of the deceased be considered under Rule 4 of the Scheme of 2003 without taking into account the rejection of his mother's application for compassionate appointment on 10th August, 2006. We are informed that no such compassionate appointment has been made.

16. In view of the aforesaid, we are in agreement with the view taken in the impugned judgment that the case of the respondent would be covered by 2006 Rules for ex-gratia payment.”

Relevant rule in question of 2006 policy reads 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.”

Keeping in view the above, we are of the considered opinion that apart from the aspect of the interest element, no case is made out for interference, since the State had preferred as such to file the appeal and the operation of the order was stayed on 23.01.2018. We are also of the opinion that penal clause of interest @ 12% per annum would not come into play on that account.

Accordingly, the appeal is partly allowed to the extent that interest @ 6% per annum would be the entitlement from 16.09.2008. The amount be paid within a period of 2 months from today, failing which the interest element would go upto 8% per annum.

The appeal is accordingly disposed of with the aforesaid observations.

(G.S. SANDHAWALIA)
JUDGE

May 16, 2022
Naveen

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether Reportable :

Yes/No