

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26221-2022
Date of Decision: 17.11.2022

SANJAY PAL

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM : Hon'ble Mr. Justice Deepak Sibal

Present : Mr.Sandeep Singal, Advocate for the petitioner.
Mr.Jagbir Malik, Additional Advocate General, Haryana.

Deepak Sibal, J. (Oral)

Through the present petition filed under Article 226 of Constitution of India the petitioner prays for the issuance of a writ in the nature of mandamus to direct the State to release ex-gratia/ pensionary benefits to the petitioner on the death of his wife.

The petitioner's wife, while serving as a Warder in the district Jail at Panipat, died in harness on 23.09.2022. After her death, the petitioner, through an undated application, sought release of his wife's full salary from the date of her death till her retirement; her General Provident Fund and other retiral benefits. Such application was made by him under the Haryana Civil Services (Compassionate Financial Assistance and Appointment) Rules, 2019 (for short - the Rules). Through letter dated

14.10.2022 the State responded to the petitioner's application and asked him to file all requisite documents that were required under the Rules. According to the petitioner he had thereafter submitted all relevant documents but since when even after the submission thereof ex-gratia payments were not released he has been forced to knock the doors of this Court through the instant petition.

Learned counsel for the petitioner submits that inspite of the fact that the petitioner has completed all the formalities prescribed under the Rules the State has unduly delayed disbursement of the ex-gratia benefits payable to him. In particular, reliance is placed on Rule 16 of the Rules to say that atleast lumpsum ex-gratia amount of Rs.01 lakh which is required to be disbursed within 15 days of the date of death of the employee should have been disbursed.

The petitioner's wife was working as a Warder in the Panipat District Jail. She died in harness on 23.09.2022. After her death the petitioner made an application to the Superintendent of the District Jail at Panipat seeking release of benefits payable to him under the Rules. Through letter dated 14.10.2022 the petitioner's undated application was responded to by the Director General (Jails), Haryana through which the petitioner was asked to submit all the documents required under the Rules so that his application could be processed.

Rule 5, 36 and 39 of the Rules along with Form CFA-I which are relevant are reproduced as under :-

5. (1) In these rules, unless the context otherwise requires,—

(a) “compassionate financial assistance” means a monthly assistance at the rate specified by Government by notification from time to time, which is admissible under these rules to the eligible family member(s) of a Government employee who dies or disappears while in service subject to

future good conduct;

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(c) “deceased Government employee” means a Government employee who while working on regular basis dies while in service;

(d) “dependent” means a family member whose total income from all sources is less than the sum of minimum family pension plus dearness relief thereon as specified from time to time by Government. Note.— Parents shall be deemed to be dependent on the Government employee if their combined income is less than the minimum family pension, specified from time to time, plus the dearness relief admissible thereon. Unmarried Disabled siblings [brother(s) and sister(s)] shall be deemed to be dependent on the Government employee if their income is less than the minimum family pension plus dearness relief;

(e) “eligible family member” means spouse or a dependent member of the family of deceased or missing Government employee in order of priority seeking financial assistance or appointment on compassionate grounds;

(f) “family for the purpose of compassionate financial assistance” means — (i) (a) widow (widows wherever permissible under personal law) or widower, upto the date of re-marriage or death, whichever is earlier;

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(1) of casual or daily-rated or part-time employment;

(2) paid from contingencies/contingent charges;

(3) of work-charged establishment;

(4) appointed on contract or adhoc basis; and

(5) re-employed after retirement;

(j) “martyred Government employee” for the purpose of these rules means a Police personnel or a civil employee of the Haryana Government working on regular basis who is killed in action while performing duties of his office displaying bravery and extraordinary courage;

(k) “missing Government employee” means a Government employee who while working on regular basis—

(a) disappears and whose whereabouts are not known;

(b) is reported through the Police Station to be missing while on pilgrimage, tour, etc.; or

(c) has been kidnapped by insurgents/terrorists;

(l) “while in service” means during the period of service but before attaining the age of superannuation.

Exception.— In case of Haryana Civil Medical Services Doctors or any other personnel where the age of superannuation is more than sixty years, the age of superannuation for the purpose of duration of compassionate

financial assistance admissible under these rules shall be deemed to be sixty years.

(2) The terms not defined in these rules but defined in Haryana Civil Services Rules, 2016 shall have the same meaning and sense for the purpose of these rules.

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36. *(1) On receiving information of death of a Government employee while in service, the Head of Office shall send a letter enclosing the Form CFA-1 to the family of the deceased and ask for the necessary documents mentioned therein.*

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39. *(1) The following documents are required to be submitted by the eligible family member with the application form for the purpose of compassionate financial assistance:–*

- (i) Application in form CFA-1.*
 - (ii) Certificate of Income of child and/or parent from all sources.*
 - (iii) Certificate of marriage or remarriage, in case of female member.*
 - (iv) Medical certificate of physically disabled child, if any.*
 - (v) Certificate of no judicial proceedings in respect of a criminal case are pending against him/her in any Court of law.*
- (2) The eligible family member in receipt of compassionate financial assistance shall have to appear personally or furnish life certificate and income certificate duly attested by any gazetted officer or village Sarpanch or Municipal Councillor of the area of his residence to the concerned Head of office once in every six months.*

xxx xxx xxx

FORM CFA-1

1	Name :	
2	Date of Birth :	
3	Date of joining on regular basis of deceased employee/disappeared Government employee:	
4	Date of death/disappearance alongwith copy of death certificate or First Information Report (FIR)	
5	Designation/Post last held :	
6	Last drawn Basic Pay :	
Full information of Family Member eligible for compassionate financial assistance :		

documents, as prescribed under Rule 39 are also to be appended. The object behind completion of such formalities is to ensure that only the eligible person/dependent is released the payable compassionate financial assistance.

As per the available record, in response to the petitioner's undated application for the grant of compassionate financial assistance, through letter dated 14.10.2022, the Director General Jails, Haryana had asked the petitioner to submit all the documents/ information as required under Rules 36 and 39. Through a vague averment made in paragraph No.6 of the present petition the petitioner states that he had submitted all the relevant documents. Details of the documents submitted by the petitioner have not been given. Neither the covering letter submitted by the petitioner nor the documents that he had appended thereto are found on the record. The date as to when the petitioner had submitted the required documents, if at all he did, is also not forthcoming. Thus, it is impossible to decipher as to whether the petitioner has fulfilled all the requirements prescribed under Rules 36 and 39.

Even if it is assumed that the petitioner has filed his application with all the required documents, the same would have been done only after 14.10.2022. That being so, before rushing to this Court he has hardly given the State any reasonable time to consider his case.

Even otherwise, through the present petition the petitioner seeks issuance of a writ in the nature of mandamus but admittedly, before approaching this Court he has not called upon the respondents to do the legal duty cast upon them. Thus, the prayer made by the petitioner for the issuance of a writ of mandamus would not lie.

In the light of the above no merit is found in the instant petition and the same is hereby dismissed.

It is clarified that dismissal of the present petition would not stand in the petitioner's way to pursue his claim, as per his eligibility and under the Rules and if the petitioner does establish his eligibility under the Rules the State shall consider and expeditiously dispose of his application, in accordance with law.

17.11.2022
gk

(Deepak Sibal)
Judge

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