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2023:PHHC:151737

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1843-2022
DECIDED ON:28.11.2023

SAKURI DEVI

.....PETITIONER

VERSUS

HARYANA SHEHRI VIKAS PRADHIKARAN AND ORS.
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sourabh Goel, Advocate for the petitioner.

Mr. Prateek Mahajan, Advocate and
Ms. Saloni Sharma, Advocate for respondents.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 01.06.2021 (Annexure P-6) vide which the representation made by the petitioner seeking financial assistance under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006 has been rejected.
2. Learned counsel for the petitioner contends that husband of the petitioner had joined the service of respondent no.1 in the year 1993 on Temporary Muster Roll (TMR) on the post of Beldar and his services were regularized by the respondents on 01.05.1997 w.e.f. 19.03.1993, who died in service on 12.06.2001.
3. He further contends that the petitioner/wife of deceased had

submitted an application dated 22.11.2018 to claim monthly financial assistance from the respondent-department, but the said representation has not been decided by the Department. Aggrieved against the said inaction of the authorities, petitioner filed CWP-17539-2020, whereby the Court issued a direction to decide and consider the representation of the petitioner within a period of three months. In pursuant to which, respondents passed a speaking order dated 01.06.2021 (Annexure P-6) rejecting the claim of the petitioner.

4. On the other hand, learned counsel for respondents No.1 to 4 contends that the case of the petitioner for the grant of financial assistance is not maintainable, as the petitioner herself is a Government employee and is working as Beldar with the respondents on regular basis.

5. Further to support his arguments, the respondents relies upon Rule 8(d) of 2003 of the Haryana Compassionate Appointment to the Dependents of Deceased Employees Rules, 2003 (hereinafter referred to as 'Rules, 2003'), which is reproduced as under:-

"8. The criteria for eligibility under these Rules shall be as under:-

(d) Where spouse of the deceased is already in Government service, no other dependent member shall be eligible for appointment or ex-gratia compassionate financial assistance".

6. Heard learned counsel for respective parties.

7. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision

enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., (i) to enable the family of the deceased to get over the sudden financial crisis. (ii) Appointment on compassionate grounds is not a source of recruitment.

8. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependents of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis. Since, compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased Government employee as a consequences of his death, a claim for compassionate appointment may not be entertained after lapse of considerable period of time, since the death of the employee.

9. In *Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138*, the Apex Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependents of the deceased who is eligible for such employment. Mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public authority concerned has to examine the financial condition of the family of the deceased and only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court

further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

10. Considering the above submissions made and the fact that the wife of the deceased-husband is herself is a Government employee working with the respondent-Department and thus, under Rule 8(d) of Rules, 2003, petitioner is not entitled for any financial assistance or ex-gratia appointment in view of the above stated Rule. Moreover Rules, 2003 are prospective in nature and are only applicable to the employees, who were in working in the year 2003. In the present case in hand, the husband of the petitioner died in the year 2001 and thus, Rules, 2003 are not applicable to the case of the petitioner. Also the petitioner raised her claim by making representation only on 22.11.2018, which is after passing of 17 years of date of death i.e, 12.06.2001, meaning thereby that the petitioner or any other legal heir of the deceased employee has not opted for any ex-gratia assistance or monthly compassionate assistance within stipulated period of three years from the date of death of the deceased employee.

11. Further reliance can be placed upon on the judgment rendered by Supreme Court in ***Civil Appeal No. 8842-8855 of 2022 titled as State of West Bengal vs. Debabrata Tiwari and Others***, wherein the same principle as was held in ***Umesh Kumar Nagpal's case (supra)*** has been reiterated that compassionate appointment is not a vested right to be claimed under

Article 226/277 of the Constitution of India and if it needs to be claimed then it has to be made to the appropriate authorities within the reasonable time without there being any delay or laches on the part of the petitioner.

12. Hence, no ground is made out for compassionate appointment/financial assistance, since the basic principle of granting any financial assistance or the compassionate appointment to the family of deceased is to provide help in meeting out hardship on account of untimely death of the husband of the petitioner, which accrued in the year 2001. Moreover, an application for compassion appointment can be considered only if the same is made within a period of three years from the death of the employee.

13. Now added with the aspect that after 22 years since the death of her husband, the petitioner has no right, which is badly time barred, in the light of facts and circumstances herein above.

14. Petition stands dismissed being devoid of merits.

(SANDEEP MOUDGIL)
JUDGE

28.11.2023
Sham

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>