

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.14441 of 2019 (O&M)

Reserved on:20.02.2023

Date of Decision.10.03.2023

Suman Bala

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. R.S. Randhawa, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Anand Bhardwaj, Advocate
for the respondents No.3 & 4.

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JAISHREE THAKUR J.

1. The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of Mandamus, directing the respondents to offer appointment/financial assistance to the petitioner on compassionate grounds in place of her deceased husband, who died while serving as Daily Wager in the Engineering Department in respondent No.4-Mill under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006.

2. In brief, the facts as enumerated in the writ petition, are that husband of the petitioner herein namely Devender joined in the Engineering Department of respondent No.4-Mill on daily wages, however, his services were regularized vide order dated 17.04.2013 as Syrup Sulphitor Attendant, however, he died on 03.10.2018. After death of husband of the petitioner, she submitted application dated 26.12.2018 seeking ex-gratia appointment for herself, however, respondent No.4-Mill refused to grant ex-gratia appointment

on account of the fact that husband of the petitioner was not a permanent/seasonal permanent employee of respondent No.4-Mill. Aggrieved against the action of respondent No.4-Mill of not granting ex-gratia appointment to the petitioner, she approached this Court by way of instant writ petition.

3. Learned counsel appearing for the petitioner would contend that since husband of the petitioner had died in harness, she is entitled for ex-gratia appointment/financial assistance in terms of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006. However, the case of the petitioner has been rejected only on the ground that husband of the petitioner was not a permanent employee of respondent No.4-Mill. It is further argued that a Coordinate Bench in CWP No.12370 of 2014 titled as *Anju Vs. State of Haryana and others* decided on 01.03.2016 where the deceased employee did not complete three years of service, directed the respondents to consider the case of the petitioner therein as per Haryana Compassionate Sugar Mills Employees Rules, 2005 (in short Rules of 2005) by taking aid of Rule 17 thereof, which provided relaxation of aforesaid rules in special and exceptional circumstances to overcome the extraordinary hardship to the family of deceased employee. Reliance has also been placed upon the judgment passed by this Court in CWP No.25064 of 2018 titled as *Prem Maya Vs. Haryana State Federation of Cooperative Sugar Mills Ltd. and another* decided on 31.01.2023. It is further argued that since RCS (Sugar Mills) is vested with power to relax any of the provisions of the rules as a special case in exceptional circumstances to overcome the extraordinary hardship to the family of deceased employee in terms of Rules of 2005, therefore, case of the

petitioner for ex-gratia appointment/financial assistance can be considered by giving relaxation.

4. Per contra, learned counsel appearing for the respondents would submit that though name of deceased-husband of the petitioner, who was working on daily wages, was sent for regularization along with the other employees but vide letter dated 22.04.2013 (Annexure R-3/1), the process of regularization of daily wagers was directed to be withheld till the receipt of the approval/orders from the State Government, which approval was not received. It was further argued that since the deceased-employee was not permanent employee and was working on daily wages in respondent No.4-Mill, case of the petitioner for ex-gratia appointment cannot be considered in terms of Rules of 2005 and therefore, the writ petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have perused the paper book. At the very outset, it is worthwhile to mention that Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 are not applicable to the present case and the rules applicable would be Haryana Compassionate Sugar Mills Employees Rules, 2005. The very object of the Rules of 2005 is to assist the family of a deceased employee in tiding over the financial crunch that is caused on account of the demise of an earning member of a family and being a welfare State, its aim and endeavour should always be to achieve the object. Admittedly, husband of the petitioner was not in regular appointment with respondent No.4-Mill, being a daily wager and therefore, her case for ex-gratia appointment cannot be considered in terms of Rules of 2005. However, in the reply filed by the respondent No.4-Mill, it is categorically stated that though the petitioner herein

cannot be offered appointment on compassionate grounds but her case can be considered for financial assistance of Rs.3 lakhs.

6. In view of the aforesaid facts and circumstances and the averment made by respondent No.4 in its reply that case of the petitioner can be considered for financial assistance of Rs.3 lakhs, respondent No.4 is directed to consider the case of the petitioner for ex-gratia financial assistance of Rs.3 lakhs within four weeks from the date of receipt of certified copy of this order and if found eligible, release the same within a period of two weeks thereafter. The writ petition stands allowed in above terms.

March 10, 2023

Pankaj*

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No