

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

214**CWP No.7656 of 2009****Date of decision:21.03.2023**

Usha Rani and another

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikas Mohan Gupta, Advocate
for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J.

Petitioners have approached this Court *inter alia* seeking issuance of a writ in the nature of certiorari for quashing order dated 11.09.2006 (Annexure P-4), whereby, the respondents have refused to provide employment to petitioner No.2 on compassionate grounds.

Facts leading to filing of the petition are that Jai Singh, Assistant Sub Inspector, died in harness while on duty on 24.01.2005. He was survived by his widow-petitioner No.1 and his son, who was a minor at that time. Vide application dated 17.02.2005 (Annexure P-1), petitioner No.1 applied for compassionate appointment on behalf of her son, which was followed by application (Annexure P-2). Respondent No.4 forwarded the application of the petitioner to respondent No.3 alongwith the requisite documents seeking sanction for appointment of petitioner No.2 as Constable under the Ex-Gratia Scheme. However, by impugned communication dated 11.09.2006 (Annexure P-4), respondent No.2 returned the reference and

sought option from the petitioners as to whether they want to opt for lumpsum ex-gratia grant as provided under the Rules of 2003/2005 or monthly financial assistance under the Haryana Compassionate Assistance to the Dependents of Deceased Govt. Employees Rules, 2006 (for short “the 2006 Rules”). As appointment was not being provided, petitioner No.1 under compulsion opted for the ex-gratia amount, which was sanctioned, vide order dated 13.06.2007 (Annexure P-5) and she received an amount of Rs.2.50 lacs in terms of the 2006 Rules.

Upon notice, writ petition has been contested by the respondents by filing a response, wherein, it has been submitted that having opted for ex-gratia assistance under the new rules, the petitioners are debarred from seeking employment on compassionate basis.

By making a reference to the Haryana Compassionate Assistance to the Dependents of Deceased Govt. Employees Rules, 2003 (for short “the 2003 Rules”), counsel for the petitioners submits that as the 2003 Rules were in force at the time of death of the head of the family, the respondents were bound to provide compassionate appointment to petitioner No.2. He submits that subsequent change in the rules, does not defeat the right of the petitioners. He has invited attention of the Court to the interim order dated 13.03.2019 passed by this Court to submit that the State was directed to file an affidavit as to whether instead of lumpsum financial grant as provided under the ex-gratia policies, the petitioners should be given financial assistance.

State counsel has made a reference to the affidavit dated

17/19.07.2022 filed in response to the interim order to submit that pursuant to a choice extended to petitioner No.1, by letter dated 10.04.2007, she sought lumpsum ex-gratia amount of Rs.2.5 lacs, which has been sanctioned, vide order dated 13.06.2007 (Annexure R-2) and she never sought monthly financial assistance despite the fact that option was available with her.

I have heard counsel for the parties at considerable length.

The objective behind the 2003 Rules and 2006 Rules formulated by the Govt. is to provide succor to the dependents of the deceased Govt. servant so that they are in a position to face the financial crisis due to the untimely demise of the bread earner either by providing them monetary assistance or by an appointment on compassionate basis to an eligible dependent. It is evident from the record that the dependents of the deceased were given lumpsum financial amount of Rs.2.5 lacs after coming into force of the 2006 Rules. Rule 6 of 2006 Rules provides thus:-

“6 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 monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006.”

It is an admitted position that the ex-gratia amount stands paid to petitioner No.1, who, three years later approached this Court seeking compassionate appointment for her son. The wording of sub-rule is amply clear. The financial assistance/grant is provided by the Govt. in lieu of compassionate appointment in all cases which remained pending on coming into force of the 2006 Rules. Having received the grant in terms of the Rules, petitioner No.1 cannot insist upon ex-gratia appointment for petitioner No.2. There is no merit in the claim being raised by the petitioners.

Petition is dismissed.

March 21, 2023

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes