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

CWP No.15644 of 2013 (O&M)
Reserved on:22.02.2023
Pronounced on:10.03.2023

Anil Kumar ...Petitioner

Vs

State of Haryana and others ...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms. Shaveta Sanghi, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Pardeep Singh Poonia, Advocate and
Mr. Pulkit Dhanda, Advocate
for respondents No.2 to 4.

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JAISHREE THAKUR J.

1. The present writ petition has been filed under Article 226/227 of the Constitution of India seeking appointment/release of ex-gratia compassionate financial assistance to the petitioner in view of Haryana Government Instructions dated 30.11.2005 (Annexure P-13), 01.08.2006 (Annexure P-4) and in terms of order dated 19.05.2009 (Annexure P-1) passed by respondent No.3.

2. In brief, facts are that the petitioner is an adopted son of the deceased-Kailash Chand, who died while in service on 21.06.2007. The deceased was working as Assistant Lineman in Dakshin Haryana Bijli Vitran Nigam (in short DHBVN) at Narnaul, Haryana when he died on 21.06.2007. The date of birth of the deceased-Kailash Chand was 06.06.1954. The petitioner, being the only dependent on the deceased, submitted all requisite papers for availing the benefit of financial assistance. The respondents vide order dated 19.05.2009 had

initially sanctioned monthly assistance to the petitioner on the basis of last pay drawn by the deceased w.e.f. 22.06.2007 to 30.06.2012, but the same was not released to him. The petitioner approached this Court by way of CWP No.1074 of 2010, which was disposed of vide order dated 22.01.2010 by issuing direction to the respondents to decide legal notice of the petitioner by passing a speaking order. In pursuance of the order passed by this Court, respondents passed order dated 16.04.2010 stating therein that the petitioner would be entitled to monthly assistance w.e.f. 22.06.2007 to 31.12.2008, keeping in view the fact that the petitioner would attain the aged of 25 years on 31.12.2008. Aggrieved against the said order, petitioner filed another writ petition bearing CWP No.16886 of 2010 titled as *Anil Kumar Vs. The General Manager, DHBVN and others*, which was disposed of vide order dated 21.02.2011, observing that since the petitioner is covered by the 2006 Rules, respondents would be justified in taking the stand and therefore, no further direction is needed to be issued. Despite the respondents having admitted entitlement of the petitioner for ex-gratia financial assistance, the same is not released to him. Hence, the present writ petition.

3. Learned counsel appearing on behalf of the petitioner would contend that being the sole heir and dependent of the deceased, the petitioner would be entitled to all benefits under the Haryana Compassionate Assistance to the Dependent of Deceased Government Employee Rules, 2006 (hereinafter referred to as Rules of 2006), which were in force as on the date when father of the petitioner expired. It was argued that Rule 3 of the Rules of 2006 specifies the 'eligibility to receive' financial assistance and Rule 5 provides for the criteria for financial assistance. It is submitted that Rule 3 of Rules of 2006 stipulates that those persons who are eligible as per the provisions of the Pension/Family Pension Scheme, 1964 would be considered eligible under the Rules of 2006 to receive financial assistance. i.e.

pension is admissible in the case of widow/widower up to the date of death or re-marriage whichever is earlier and in the case of son/unmarried daughter until he/she attains the age of 25 years. It was argued that in terms of Rule 5 (1) (c), financial assistance has to be given for a period of 7 years or till the age, the employee would have retired from government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of 48 years. It was further argued that a conjoint reading of the Pension/Family Pension Scheme, 1964 and the Rules of 2006 would reflect that the petitioner, who was only 23 years old when his father had expired, would be entitled to financial assistance for a period of 7 years or till the date of superannuation of his deceased-father, whichever is less.

4. Per contra, learned counsel appearing on behalf of the respondents herein would argue that the petitioner would be entitled for monthly financial assistance upto the age of 25 years and the petitioner would attain the said age on 31.12.2008 and therefore, would not be entitled for financial assistance as per Clause 5 (1) (c) of the Rules of 2006 as claimed by him.

5. I have heard learned counsel for the parties and have perused the paper book.

6. The very object of the 2006 Rules is to mitigate the sudden financial crisis that has fallen upon the family of a deceased Government employee on account of the loss of a bread-winner. Rule 3 of the 2006 Rules clearly stipulates that the eligibility of a dependent to receive financial assistance under such Rules shall be as per provision in the **pension**/Family **Pension Scheme**, **1964**. The petitioner herein is claiming financial assistance in terms of Rule 5 (1) (c) of the Rules of 2006. Para 4 (iii) (b) of Family Pension Scheme, 1964 provides that pension is admissible in the case of widow/widower up to the date of death or re-marriage

whichever is earlier and in the case of son/unmarried daughter *until he/she attains the age of 25 years*. The petitioner herein was 23 years of age on the death of his father and at that time, he would have become eligible to receive the financial assistance under the Rules of 2006.

7. The question to be decided is whether Rule 5 (1) (c) of the Rule of 2006 would be made applicable to the petitioner or not. The said rule is reproduced as under:-

> *"5. Criteria for financial assistance. (1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. –*
>
> *xxxxxx*
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> *(c) for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty-eight years."*

8. Rule 5 (1) (c) *ibid* allows for financial assistance for a period of seven years or till the age the employee would have retired from government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of 48 years. The eligibility to receive financial assistance has to be determined in terms of the Family Pension Scheme, 1964. The eligibility to receive pension for a widow/widower is up to the date of death or re-marriage, whichever is earlier ***and*** for son/unmarried daughter until he/she attains the age of 25 years. If a person claiming ex-gratia financial assistance under Rules of 2006 is a widow who has re-married on the death of deceased, she would not be

entitled to claim compassionate assistance neither would a married daughter or a son, who has already attained the age of 25 years on the death of the employee. In the present case, admittedly, the petitioner was 23 years of age and therefore, was fully eligible to receive financial assistance at the time of death of his father, who was 54 years of age at the time of his death. Therefore, as per Rule 5 (1) (c) of the Rules of 2006, the petitioner would be entitled to financial assistance till the date father of the petitioner would have retired from government service on attaining the age of superannuation.

9. In view of the aforesaid facts and circumstances, order dated 16.04.2010 is set aside and the writ petition stands allowed in above terms. The monthly financial assistance shall be calculated as per Rule 5 (1) (c) of the Rules of 2006 and released to the petitioner within a period of two months from the date of receipt of certified copy of this order, failing which the same shall be paid with interest @7% per annum.

(JAISHREE THAKUR)
JUDGE

March 10, 2023
Pankaj* Whether speaking/reasoned Yes/No
Whether reportable Yes/No