

CWP-14946-2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CWP-14946-2017 (O&M)
DATE OF DECISION:- 09.05.2023

RAM KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Dilbagh Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

CM-4616-CWP-2016

1. Application is allowed.
2. Replication is taken on record.

Main case

1. Instant writ petition has been filed *inter alia* for issuance of a writ in the nature of mandamus directing the respondents to consider one dependent family member of the deceased employee for compassionate appointment or in the alternative, to release the monthly pay and allowances due to the deceased employee until her superannuation, under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 (for short “the 2006 Rules”).

2. Smt. Salot Devi, wife of the petitioner, was serving as a J.B.T. Teacher since 1991 in a Government Primary School and died in harness

on 15.11.2005. An amount of Rs.2.5 lacs was credited in the account of the petitioner on 20.06.2009 by way of Ex-gratia Compassionate grant, but claiming that he is entitled to compassionate appointment or monthly financial assistance under the 2006 Rules, he has filed the instant writ petition.

3. Counsel for the petitioner has placed reliance upon a Division Bench judgments passed by this Court in *LPA-805-2009 titled as State of Haryana and others Versus Shanti Devi*, decided on 31.08.2009 and *Raj Kumari Versus Uttar Haryana Bijli Vitran Nigam Limited and others 2008 (4) SCT 411* and a judgment of a Co-ordinate Bench of this Court in *CWP-1328-2009* titled as *Bimla Devi Versus State of Haryana and others*, decided on 29.05.2009 to contend that the assistance under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2005 (for short “the 2005 Rules”), which was notified on 18.11.2005, three days after death of petitioner’s wife, deserve to be granted to the petitioner.

4. *Per Contra*, learned State counsel, on the basis of a short reply submitted by the official respondents, has opposed the petition. It is his argument that at the time of the death of the Government employee, 2003 Rules were in force and in terms thereof, petitioner has been paid an amount of Rs.2.5 lacs on the basis of an affidavit submitted by him and he is not entitled to any further benefit.

5. I have considered the respective submissions of the counsel for the parties and examined the material placed on the record.

6. Rules 4 and 6 of the 2006 Rules, which are relevant for the purposes of the determination of the controversy in hand, deserve to be noticed and are reproduced hereunder:-

“4. An eligible family member of the deceased/missing Government employee shall make an application in Form A for compassionate financial assistance.”

XXXX

XXXXX

XXXXXX

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

7. Rule 6 came up for interpretation before a Division Bench of this Court in **Raj Kumari’s** case (supra), which has been followed **Shanti Devi’s** case (supra) and **Bimla Devi’s** case (supra). It was held as under:-

“A perusal of the aforementioned rule shows that all pending cases of ex- gratia assistance are to be covered under the 2006 Rules and the payment is required to be made from the date of notification of these rules i.e. 1.8.2006 (P-9). An option has been given to the families to opt for lump sum ex-gratia grant provided in the 2003 Rules

or 2005 Rules in lieu of the monthly financial assistance under the 2006 Rules. Accordingly, the petitioner has been rightly given the benefit of these rules by passing order dated 13.3.2007 (P-5).”

8. There is nothing to show that any application was ever made by the dependent of the deceased government employee seeking compassionate appointment or monthly financial assistance in the prescribed form under the 2006 Rules. Rather, it is clear from the stand taken by the respondents that the petitioner submitted an affidavit dated 22.08.2008, Annexure R-2, opting for ex-gratia grant of Rs.2.5 lacs and on its basis, the amount was sanctioned vide order dated 18.11.2008, Annexure R-3, which has been credited in his bank account. Although, petitioner has stated in the legal notices, Annexure P-3 and P-4, that he submitted various representations claiming compassionate appointment as well as monthly financial assistance under the 2005 Rules, but not a single representation has been placed on the record. Therefore, this contention cannot be accepted.

9. In the replication filed to the written statement, petitioner has stated that he submitted the affidavit, Annexure R-3, under duress and that the petitioner nor the dependents of the deceased were aware of the coming into force of the 2005 Rules. Still further, it is his stand in the replication that had the petitioner not given the affidavit, even the amount of Rs.2.5 lacs would not have been disbursed to him. Moreover, it is for the respondents to show that they had sought a option from the dependents of the deceased as to whether they wanted to choose the lump

sum amount under the 2003 Rules or the 2005 Rules. However, no categorical stand in this regard has been taken by the respondents in their short reply. In these circumstances, this Court is of the view that the affidavit was given by the petitioner as he was compelled by the circumstances and the affidavit has to be read as an option for lump sum amount under the 2005 Rules and petitioner is entitled to the grant of the ex-gratia consolidated financial assistance of Rs.5 lacs instead of 2.5 lacs, which has been released to him.

10. In view of the above discussion, a direction is issued to the respondents to pay ex-gratia amount of Rs.5 lacs to the petitioner under the 2005 Rules. As the petitioner has already received Rs.2.5 lacs, the balance amount be released to him within a period of four months from the date of receipt of a certified copy of this order. In case, the amount is not disbursed within the aforesaid period, it shall carry an interest @ 6% per annum for the delayed period.

11. Writ petition is disposed of with the above direction.

(SUVIR SEHGAL)
JUDGE

09.05.2023
Kamal

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