

CWP-17067-2018 (O&M)

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2023:PHHC:149426

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-17067-2018 (O&M)

Date of Decision :-23.11.2023

Kirosta

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Varun Gupta, Advocate for
Mr. S.N. Yadav, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance of the petitioner is that after the remarriage of her daughter in law, the petitioner, who is the mother of the deceased employee namely, Rakesh becomes entitled for the grant of benefit of financial assistance as envisaged under the Notification dated 01.08.2006 (Annexure P/4)

2. The facts leading to the filing of the present petition are that one Rakesh, who is the son of the petitioner and was husband of respondent No.4 was working as conductor in the Haryana Roadways since 11.02.2015. Unfortunately, on 09.12.2015 in a road accident, said Rakesh died. After death of Rakesh, respondent No.4 being a widow claimed the ex gratia financial benefits admissible under the Notification dated 01.08.2006 according to which, family of the deceased employee was entitled for certain

financial benefits. In the Notification dated 01.08.2006, it was mentioned that for the purpose of ascertaining the family, the same will be as given in Family Pension Scheme 1964. Keeping in view the entitlement of the respondent No.4, she was granted financial assistance after death of Rakesh under notification dated 01.08.2006, but the same was stopped after respondent No.4 remarried.

3. After the remarriage of the daughter-in-law of the petitioner, the petitioner, who is the mother of the deceased employee has come to the Court claiming the ex gratia financial benefits under the Notification dated 01.08.2006.

4. Learned counsel for the petitioner argues that the petitioner, who was the mother of deceased Rakesh was dependent upon him hence, after respondent No.4 i.e. widow of Rakesh got remarried, the petitioner should have been given remaining benefit of financial assistance and non-grant of the said benefit by the respondents is arbitrary and illegal.

5. After notice of motion, the respondents have appeared and contested the claim of the petitioner.

6. Learned counsel for the respondents submits that claim of the petitioner is not covered under the Notification dated 0108.2006 as the petitioner i.e. the mother is not covered under the definition of family as envisaged under the Pension Scheme, 1964 hence, non-grant of financial assistance to the petitioner after the remarriage of her daughter-in-law i.e. respondent No.4 is perfectly valid and legal.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. It is a conceded position that in the present case, the petitioner is seeking financial assistance as envisaged under Notification dated 01.08.2006. It is also a conceded position that only family as defined under the Pension Scheme 1964 is entitled for the said benefit. For the purpose of ascertaining the eligibility of the petitioner, the definition of family as mentioned in 1964 Scheme is reproduced as under:-

(ii) "Family" for the purpose of this scheme includes the following relatives of the officer:

(a) Wife, in the case of a male officer.

(b) Husband, in the case of a female officer,

(c) Minor sons;

(d) Unmarried minor daughter,

(e) widowed/legally divorced daughter; and

(f) The aprent of an unmarried officer.

Note 1. Clause (c) and (d) include children adopted legally before retirement.

Notice 2. A judicially separated wife/husband does not lose her his legal status of wife/husband of the government employees and is thus eligible for the benefit of the Family Pension Scheme 1964.

(iii) The pension is admissible:-

(a) In the case of widow/widower up to the date of death or remarriage, whichever is earlier.

(b) In the case of son/unmarried daughter until he/she attains the age of twenty five years.

(c) In the case of parents who are wholly dependent on the Government employee when he/she was alive, up to the date of death provided the deceased employee had left behind neither a widow nor a child.

(d) In the case of the children in the order of their birth and younger of them will not eligible for family pension unless the elder next above him/her has become ineligible for grant of family pension.

(c) in the case of divorced/widowed daughter till they are alive."

9. A bare perusal of the above would show that the parents of the deceased employee are only eligible in case an employee has died unmarried.

10. In the present case, it is a conceded position that deceased Rakesh was married to respondent No.4 at the time of his death and as per the 1964 Scheme respondent No.4 was entitled to get the benefits of financial assistance after death of Rakesh but only up to the date she does not remarry and thereafter, the same will be stopped unless and until there

are children to claim the said benefits after remarriage of the widow.

11. Learned counsel for the petitioner has not been able to controvert the said fact that parents of deceased married officer are not entitled for benefit of financial assistance under 2006 Rules.

12. That being the position of law with regard to the claim of the petitioner coupled with facts of the present case stated hereinbefore, no benefit of Ex Gratia Financial Assistance Rules, 2006 can be granted in favour of the petitioner and the present petition is accordingly dismissed.

November 23, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No