

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

CWP No.24597 of 2017 (O&M)

Reserved on:20.02.2023

Date of Decision.10.03.2023

Neelam Devi

...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 consider the claim of the petitioner for grant of ex-gratia appointment to her son/financial assistance in terms of 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 Sanjeev Kumar joined as CFO in Bhuna Cooperative Sugar Mills Ltd. in the year 1991. However, upon closure of the Bhuna Cooperative Sugar Mills Ltd., its employees filed various writ petitions before this Court and vide order dated 28.01.2015 passed in CWP No.17837 of 2006 and other connected matters, a direction was issued to the respondent authorities therein to adjust all ex-employees of the erstwhile Bhuna Cooperative Sugar Mills on posts of their respective categories, subject

to availability of posts in other Cooperative Sugar Mills and Cooperative Institutions of the respondent-State. In compliance of order dated 28.01.2015, husband of the petitioner was appointed in respondent No.4-Sonipat Coop. Sugar Mills Limited, Sonipat on the post of CFO (Seasonal-Permanent) vide appointment letter dated 06.05.2016, however, he died on 15.04.2017. After death of husband of the petitioner, she submitted application dated 04.07.2017 seeking ex-gratia appointment to her son, however, respondent No.4-Mill refused to grant ex-gratia appointment on account of the fact that husband of the petitioner did not complete three years of regular service in the respondent No.4-Mill. Aggrieved against the action of respondent No.4-Mill of not granting ex-gratia appointment to the son of the petitioner, petitioner 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, son of the petitioner is entitled for ex-gratia appointment/or they are entitled to financial assistance in terms of the policy of the Government. It is argued that the husband of the petitioner was 47 years of age at the time of his demise and therefore, son of petitioner herein is entitled for ex-gratia appointment. However, the case of the petitioner has been rejected only on the ground that husband of the petitioner did not complete three years of service in the 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 since the deceased-employee did not complete three years of service in respondent No.4-Mill, case of the petitioner for ex-gratia appointment to her son/or financial assistance has rightly been rejected. The husband of the petitioner had served only for a period of 9 months 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 had served the respondent No.4-Mill for a period of 9 months i.e.

less than 3 years and as per Rule 3 (d) of the Rules of 2005, “deceased employee” means an employee – (i) appointed on regular basis, and not working on daily wages, casual, apprentice, work charged, ad hoc, contractual or re-employment basis; and (ii) who has served in the Cooperative Sugar Mills of Haryana for at least three years. However, Rule 17 of the Rules *ibid* would also show that there is power vested in RCS (Sugar Mills) 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. Therefore, though husband of the petitioner did not complete three years of service but the RCS (Sugar Mills) has power to relax the said condition in order to make the petitioner entitled to seek ex-gratia appointment for her son, as husband of the petitioner was 47 years of age at the time of his demise. It cannot be lost sight of the fact that the husband of the petitioner was initially working in Bhuna Cooperative Sugar Mills which came to be closed for no fault of husband of the petitioner. He was adjusted and started to work with respondent No.4-Mill thereafter.

6. In view of the aforesaid facts and circumstances, respondents are directed to consider the case of the petitioner for grant of ex-gratia appointment to her son by taking into consideration Rule 17 of the Rules of 2005 within four weeks from the date of receipt of certified copy of this order and if found eligible, appointment be offered to the son of the petitioner as per Rules of 2005 within a period of one month thereafter. The writ petition stands allowed in above terms.

(JAISHREE THAKUR)
JUDGE

March 10, 2023

Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No