

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(217)

CWP No. 4266 of 2016

Date of Decision : 11.09.2023

Sanjay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Malik, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. The present petition has been filed claiming the benefit of ex-gratia appointment/financial assistance under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employee 2006 Rules (hereinafter referred to as '2006 Rules').

2. As per the facts mentioned in the present writ petition, father of the petitioner, namely, Kartar Singh was working as a Peon-cum-Chowkidar with the respondent No. 4 and he expired on 26.04.2004 while in service. After the death of Kartar Singh, petitioner made a claim for compassionate appointment/financial assistance under the 2006 Rules. However, the claim of the petitioner was rejected on the ground that keeping in view the Instructions dated 01.08.2006 and advice dated 10.01.2007 compassionate appointment cannot be given to the

dependents of the deceased and the case of the petitioner be sent as per Instructions dated 31.03.2003 and 30.11.2005. The said action of the respondents is under challenge in the present writ petition.

3. Learned counsel for the petitioner argues that once under 2006 Rules, it has been mentioned that any claim, which is pending consideration with the department under 2003/2005 Rules and have not been decided, the 2006 Rules will be applicable, hence, in the case of the petitioner also he is also entitled for consideration of his case under 2006 Rules.

4. Learned counsel for the respondents submits that in the present case, the claim of the petitioner was to be considered under 2003 Rules keeping in view the fact that the husband of the petitioner, unfortunately, died on 26.04.2004 and as per 2003 Rules, no compassionate assistance could be given to the petitioner as the wife of the deceased was in Government service.

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

6. As per the settled principle of law settled by the Full Bench of this Court in CWP No. 4303 of 2009 titled as ***Krishna Kumari Vs. State of Haryana and others***, decided on 20.04.2012, the Policy, which was in existence on the date of death of the employee, is to be made applicable for considering the claim. In the present case, the husband of the petitioner died on 26.04.2004 on which date, concededly the Policy of 2003 Rules was in existence. The 2003 Policy very clearly stated that

in case spouse of the deceased employee is in Government service, no benefit under 2003 Rules can be extended and concededly the wife of the deceased in the present case, was in Government service at the time of death of her husband, hence, the petitioner was not eligible to get any benefit under 2003 Policy.

7. The argument of the learned counsel for the petitioner that as the respondents have not passed any order declining the claim of the petitioner under 2003 Policy till 2006 Rules came into operation, the claim of the petitioner is liable to be considered under 2006 Rules. The said argument cannot be accepted. The 2006 Rules will only be applicable in case an employee was entitled for benefit under 2003 Rules but was not granted the said benefit. The claimant/petitioner was not eligible to claim benefit under 2003 Rules, same cannot claimed under 2006 Rules.

8. Further, as per the judgment in *Krishna Kumari's case (supra)*, the date of death is very relevant for considering the eligibility of a claimant and as per the said judgment, when applied in the present case, 2003 Rules will be applicable upon the claim of the petitioner, according to which, petitioner is not eligible to claim any benefit.

9. Keeping in view the above, no ground is made out for the grant of any benefit as being claimed in the present petition.

10. Dismissed.

September 11, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No