

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

203

CWP-706-2014

Decided on : 30.10.2023

Illayachi Devi and another

. . . Petitioners

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Nikhil Lather, Advocate for
Mr. Anurag Goyal, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the prayer of the petitioner is for challenging the order dated 19.03.2012 (Annexure P-13) by which the claim of the petitioner for the grant of the compassionate appointment of petitioner No. 2 has been rejected. Further the prayer of the petitioner is to grant the *ex gratia* financial assistance under the instructions dated 01.08.2006.

2. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

3. The husband of petitioner No. 1 i.e. the father of petitioner No. 2 namely Darbara Singh, who was working on a class IV post with respondent No. 3, unfortunately died while in service on 26.08.2004. At the time of death of the employee concerned, 2003 rules titled Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 were in operation. According to 2003 rules, the family could have got the benefit of *ex gratia* compensation amount amounting to Rs.2.5 lakh or compassionate appointment as either of one was admissible to the family of the deceased.

4. The petitioner opted for the grant of *ex gratia* amount in favour of the petitioner No. 2, who at the time of the death of Darbara Singh was not eligible for the appointment as he was studying and was under age for employment. Upon completing the matriculation, the claim was raised for the grant of compassionate appointment by petitioner No. 2, which claim was considered by the Department and was rejected vide impugned order dated 19.03.2012 on the ground that there were no post against which petitioner No. 2 could have been adjusted for the compassionate appointment. The said order is under challenge in the present petition.

5. Learned counsel for the petitioner submits that the said prayer with regard to the claim of compassionate appointment may kindly be treated as not pressed as the petitioner is now pressing for grant of *ex gratia* amount for which the family was entitled for upon the death of Darbara Singh.

6. Learned State counsel submits that *ex gratia* amount of Rs.2.5 lakh which was admissible under 2003 policy was offered to the petitioner in 2003 itself but the petitioner refused to accept the same on the ground that the *ex gratia* amount should be given to the family under 2006 Rules and not under 2003 Rules.

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

8. The issue which needs to be adjudicated in the present petition is whether, the petitioners claim for grant of *ex gratia* benefit is to be considered under 2003 rules or 2006 rules.

9. As mentioned earlier, under 2003 rules, the family of the deceased was entitled for choosing either of the one i.e. *ex gratia* amount or the

compassionate appointment. The petitioners concededly opted for compassionate appointment, which claim was considered by the department. The family i.e. the petitioners had foregone the claim qua the *ex gratia* amount as admissible under 2003 rules.

10. After the claim of the petitioner for grant of compassionate appointment was rejected, the petitioner raised the claim for the grant of *ex gratia* amount which was allowed by the department as envisaged under 2003 policy i.e. amount of 2.5 lakh. The said amount was refused by the petitioners on the ground that they are entitled for *ex gratia* amount under 2006 policy and not under 2003 policy keeping in view rule 6 of 2006 policy.

11. The question which arises is whether or not, the claim of the petitioner can be considered under Clause 6 of 2006 policy for the grant of *ex gratia* amount.

12. The relevant clause 6 of 2006 policy, under which the claim is being raised by the petitioner is as under:-

“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 Govt. Employees Rules, 2006.”

13. A bare perusal of the above would show that where an *ex gratia* claim has been raised under 2003 rules and was pending till the promulgation of 2006 rules, then only, 2006 rules will apply and not otherwise. In the present case,

the petitioner never raised claim for the grant of *ex gratia* assistance under 2003 policy. The only claim raised was for the grant of compassionate appointment. It is only after 2012 when their claim for compassionate appointment was rejected, the claim for *ex gratia* assistance was raised, which was accepted by the department. The benefit of Rule 6 to claim benefit under 2006 rules, is not available to the petitioner. Hence, as under 2003 policy, a sum of Rs.2.5 lakh is only admissible under *ex gratia*, which was already offered to the petitioner, which was refused by the petitioner, no claim can be raised by the petitioner.

14. However, it is open to the petitioner to claim 2.5 lakh from the department which was already approved and sanctioned in the favour of the petitioner as an *ex gratia* amount under 2003 rules. In case such claim is raised, same be released in favour of the petitioner as respondents have already conceded this fact that *ex gratia* assistance amounting to Rs.2.5 lakh has already been approved and sanctioned.

15. The petition is disposed of in the aforesaid terms.

(HARSIMRAN SINGH SETHI)
JUDGE

30.10.2023
Mehak

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