

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

CWP No.25064 of 2018(O&M)
Date of Decision.31.01.2023

Prem Maya

...Petitioner

Vs

Haryana State Federation of Cooperative Sugar Mills Ltd. and another

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Devender Punia, Advocate
for the petitioner.

Mr. Surender Saini, Advocate
for the respondents.

-. -

JAISHREE THAKUR J. (ORAL)

C.M. No.4172 of 2020

Application is allowed.

Appointment letter dated 01.02.2016 is taken on record.

CWP No.25064 of 2018

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 ex-gratia appointment or financial assistance to the tune of Rs.5 lakhs in terms of the Haryana Compassionate Assistance to the Dependents of Deceased Cooperative Sugar Mills Employees Rules, 2005 (in short Rules of 2005).

2. In brief, the facts as enumerated in the writ petition, are that husband of the petitioner herein namely Satbir Singh joined as Seasonal Clerk (Permanent) in Bhuna Cooperative Sugar Mills Ltd. in the year 1997.

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.2-Ch. Devi Lal Cooperative Sugar Mills Ltd., Sonapat on the post of Seasonal Clerk (Permanent) vide appointment letter dated 02.09.2015, however, he died on 12.01.2018. After death of husband of the petitioner, number of representations were made to grant ex-gratia appointment to the son of the petitioner or for grant of financial assistance to the tune of Rs.5 lakhs. Though officials of respondent No.2-Mill called petitioner and her son many times but 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.2-Mill. Aggrieved against the action of respondent No.2-Mill of not granting ex-gratia appointment to the son of the petitioner or financial assistance to the tune of Rs.5 lakhs, 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 Rules of 2005. It is argued that the husband of the petitioner was more than 55 years of age at the time of his demise and therefore, the petitioner herein is entitled for financial assistance of Rs.5 lakhs as per Rule 2 (iii) and Rule 4 (b) of Rules of 2005. 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.2-Mill. It is further argued that a Coordinate Bench in identical matter i.e. 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 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.

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.2-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 2 years 2 months and 14 days 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. Admittedly, husband of the petitioner had served the respondent No.2-Mill for a period of 2 years 2 months and 14 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 RCR (Sugar Mills) has power to relax the said condition in order to make the petitioner at least eligible for grant of financial assistance of Rs.5 lakhs, as ex-gratia appointment cannot be offered as husband of the petitioner was more than 55 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.2 thereafter. The very object of the rules 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.

6. In view of the aforesaid facts and circumstances, respondents are directed to consider the case of the petitioner for grant of financial assistance of Rs.5 lakhs within four weeks from the date of receipt of certified copy of this order and in case she is found entitled, the benefit be released to her within a period of two months thereafter. The writ petition stands allowed in above terms.

(JAISHREE THAKUR)
JUDGE

January 31, 2023
Pankaj*

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