

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

CWP No.28146 of 2017 (O&M)
Reserved on:20.02.2023
Date of Decision.10.03.2023

Sanjay ...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 respondents to consider the claim of the petitioner for ex-gratia appointment/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 father of the petitioner herein, namely Kanwar Pal joined as Clerk 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, father of the petitioner was appointed in respondent No.4-Sonipat Cooperative Sugar Mill Ltd., Sonapat on the post of Clerk (Regular-Permanent) vide appointment letter dated 29.12.2015, however, he died on 06.05.2017. After death of father of the petitioner, number of representations were made to grant ex-gratia appointment to the petitioner or for grant of financial assistance to the tune of Rs.5 lakhs but respondent No.4 refused to grant ex-gratia appointment/financial assistance to the petitioner on account of the fact that his father 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/financial assistance to the petitioner, he approached this Court by way of instant writ petition.

3. Learned counsel appearing for the petitioner would contend that since father of the petitioner had died in harness, petitioner is entitled for ex-gratia appointment/financial assistance in terms of the Rules of 2006. It is argued that the father of the petitioner was more than 55 years of age at the time of his demise and therefore, the petitioner herein is entitled for ex-gratia appointment/financial assistance. However, the case of the petitioner has been rejected only on the ground that father of the petitioner did not complete three years of regular 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 therein to consider the case of the petitioner therein as per the Haryana Compassionate Sugar Mills Employees Rules, 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/financial assistance has rightly been rejected. The father of the petitioner had served only for a period of 1 year 4 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, father of the petitioner had served the respondent No.4-Mill for a period of 1 year 4 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 father 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 at least eligible for grant of financial assistance of Rs.5 lakhs, as ex-gratia appointment cannot be offered as father 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 father of the petitioner was initially working in Bhuna Cooperative Sugar Mills which came to be closed for no fault of father of the petitioner. He was adjusted and started to work with respondent No.4 thereafter.

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 he is found entitled, the benefit be released to him within a period of two months thereafter. The writ petition stands allowed in above terms.

(JAISHREE THAKUR)
JUDGE

March 10, 2023

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No