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2023:PHHC:161827

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21766-2021 (O&M)
Date of Decision: 16.12.2023

AKWINDER KAUR

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Savita Bhandari, Advocate with
Akwinder Kaur, Petitioner in person.

Mr. Saurabh Mohuta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance which has been raised by the petitioner is that she was entitled for the benefit of compassionate appointment under the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 (in short '2019 rules') which benefit was not granted to her. Certain facts needs to be noticed for the correct appreciation of the issue in hand.

2. Husband of the petitioner namely Avtar Singh was working in the Haryana Police since 01.04.2012. Unfortunately while in service, the husband of the petitioner died on 12.04.2019. After the death of the husband of the petitioner, the petitioner claimed the benefit as admissible to her for ex-gratia financial assistance.

3. It may be noticed that on the date of the death of the husband of the petitioner, the Rules called Haryana Compassionate Assistance to the

Dependent of the Deceased Government Employee Rules, 2006, (in short '2006 Rules') were in operation. Accordingly the said Rules of the year 2006, the benefit admissible to the dependents of the deceased employee was only ex-gratia financial assistance and not the compassionate appointment.

4. On 31.05.2019, whatever the benefits for which the petitioner became entitled for under 2006 Rules, were paid to her which included the salary of the deceased employee as last drawn by him upto the period of 15 year i.e. 12.04.2034.

5. After the claim of the petitioner was satisfied under 2006 Rules, the new Rules were formulated by the Government of Haryana, which were notified on 02.08.2019, called the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019. Under 2019 Rules, once again, the benefit of compassionate appointment was revived to be given to the dependents of the deceased employee in case he/she chooses the said benefit in preference to the financial assistance.

6. Under Rule 3, Note-I has been made mentioned according to which, any claim which was pending consideration with the Department under 2006 Rules upto the promulgation of 2019 Rules, the same can be converted under 2019 Rules, in case any such option is made by the claimant within a period of 06 months of the promulgation of 2019 Rules.

7. The petitioner claims that under the said note, the petitioner intends to get the benefit for compassionate appointment and is ready to return back the financial assistance already received by her under 2006 Rules. The petitioner applied for the grant of benefit of compassionate appointment under 2019 Rules on 03.09.2019. The said grant of benefit has

not been accepted by the respondents, which has led to the filing of the present petition.

8. Upon notice of motion, respondent have filed the reply in which they have controverted the claim of the petitioner on the ground that on the day when 2019 Rules were promulgated, the claim of the petitioner stood exhausted under 2006 Rules and therefore, no claim can be raised under 2019 Rules by the petitioner being ineligible.

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

10. The first contention which has been raised by learned counsel for the petitioner is that once an option was given to the dependents of the deceased employee to make claim under 2019 Rules and petitioner had exercised the said option for grant of appointment within the time frame as mentioned in 2019 Rules, the respondents were under an obligation to accept the said prayer of the petitioner.

11. *Qua* the said argument, it may be noticed that the option of six months to be exercised by the dependent of a deceased employee is only available to a dependent, whose claim is still pending consideration with the Department under 2006 Rules till the promulgation of 2019 Rules, Note-I mentioned below Rule 3 of 2019 Rules, on the basis of which the present prayer has been raised, is being mis-interpreted. Note-I is reproduced herein for the ready reference.:

Note 1. The family of deceased Government employee who died before the date of notification of these rules but have not been sanctioned the compassionate financial assistance by the competent authority due to one reason or the other,

they may exercise an option within a period of six months from the date of notification either to avail the benefit under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 or these rules. Option once exercised shall be final.

12. A bare perusal of the Note-I would show that the same is only applicable to the dependent whose claim under 2006 Rules is pending consideration by the time 2019 Rules were promulgated. Whereas, in the present case, the benefit of financial assistance under 2006 Rules had already been granted to the petitioner on 31.05.2019 which is much before the promulgation of 2019 Rules. Hence, the claim raised by the petitioner under Note-I is by total mis-reading of the said Rule as under the 2019 Rules, the petitioner whose claim already stood exhausted, is not extended to any option.

13. No other argument was raised.

14. Keeping in view the arguments raised, once the claim of the petitioner already stood exhausted by the time when 2019 Rules were made operational, no benefit of compassionate appointment as being asked by the petitioner under 2019 Rules can be granted to her.

15 No ground is made out for the grant of prayer raised in the petition.

160. The petition stands dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

16.12.2023

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