

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

(218)

CWP-28556-2018

Date of Decision : December 07, 2023

Vidya Wati

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Johan Kumar, Advocate, and
Mr. Akshit Mehta, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that the respondents have given her the claim under the ex-gratia scheme under the Policy of 2003 whereas, keeping in view the provisions of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, the petitioner is entitled for a sum of Rs.5 lacs as ex-gratia amount.

2. Learned counsel for the petitioner submits that the respondents have wrongly applied 2003 Policy for the grant of ex-gratia amount to the petitioner.

3. The facts of the present case are that the husband of the petitioner went missing on 05.06.2004. A missing report was also lodged in the Police Station Bawani Khera on 06.06.2004. The husband of the petitioner was not found and ultimately, the petitioner was informed on

29.09.2006 that a person had died in a train accident on 05.06.2004 which body was cremated and the description of the deceased was matching with the description given by the petitioner of her husband in her police report.

4. Keeping in view the fact that the husband of the petitioner was declared dead already, which information was brought to the notice of the petitioner on 29.09.2006, the petitioner raised a claim with regard to the grant of benefits including the ex-gratia benefit to be given to the petitioner. The respondents granted the petitioner the benefit of ex-gratia amounting to Rs.2.5 lacs on the ground that as the husband of the petitioner has actually died on 05.06.2004, 2003 Policy will be applicable for the grant of ex-gratia benefit, according to which Policy, a sum of Rs.2.5 lacs is admissible to the petitioner.

5. Learned counsel for the petitioner submits that as the death of the husband of the petitioner was brought to her notice only in September 2006, the ex-gratia Policy which was promulgated by the respondents on 01.08.2006 should be made applicable upon the petitioner.

6. Learned counsel for the petitioner further submits that even otherwise, even if the death of the husband of the petitioner is taken to have occurred on 05.06.2004 then also, as the claim of the petitioner was pending with the Department with regard to the release of the ex-gratia benefit and the same was only paid in the year 2010, by operation of Rule 6 of 2006 Rules, 2006 Rules are to be made applicable for all intents and purposes so as to grant the petitioner the benefit of Rs.5 lacs as ex-gratia amount.

7. Learned counsel for the respondents dispute the claim of the petitioner on the ground that once the death of the husband of the petitioner occurred on 05.06.2004, the Policy which was applicable in 2004 is to be made applicable upon the petitioner, hence, once the Policy of 2003 was

applicable on the date of the death of the husband of the petitioner, a sum of Rs.2.5 lacs, which was admissible under 2003 Policy has rightly been extended to the petitioner and therefore, the claim raised in the present writ petition may kindly be declined.

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

9. The claim of the petitioner is to be adjudicated on the basis of the Rules which have been issued by the respondents themselves for the grant of ex-gratia amount. It is a conceded fact that a sum of Rs.2.5 lacs which was paid to the petitioner under 2003 Policy, which was only paid in the year 2010, which was also accepted by the petitioner under protest.

10. Now, the claim of the petitioner under 2006 Rules needs to be adjudicated. A bare perusal of the notification dated 01.08.2006, a copy of which has been appended with this petition as Annexure P-11, Rule 6 clearly submits that all the pending ex-gratia assistance claim will be covered under new rules. Calculation and payment of the same will be made under new rules. It is only in case the family, whose claim is also covered under 2003 and 2005 Rules and they opt to remain under those rules, then only old rules will apply failing which, new Rules of 2006 will be made applicable.

11. In the present case, the petitioner never raised any claim under 2003 or 2005 Rules and therefore, by operation of 2006 Rules, once on the date when the ex-gratia amount was paid in the year 2010, 2006 Rules were in operation, the petitioner was entitled for the benefits under 2006 Rules only qua the grant of ex-gratia amount.

12. Learned counsel for the respondents has raised an argument that the death of the husband of the petitioner took place on 05.06.2004 and

the claim was to be raised within a period of three years.

13. Even if it is assumed for the sake of argument that the claim of the petitioner is to be raised within a period of three years starting from 05.06.2004 if three years period is extended, the same will occur after 01.08.2006 when the new policy had already come into operation and therefore, even if the claim is raised within the period available to the petitioner to raise the claim, the new policy of the year 2006 will be applicable.

14. Keeping in view the facts and circumstances mentioned hereinbefore, the claim raised by the petitioner with regard to the grant of ex-gratia amount of Rs.5 lacs is admissible under 2006 Rules. As sum of Rs.2.5 lacs have already been paid to the petitioner, let the remaining amount of Rs.2.5 lacs be paid to the petitioner within a period of two months from the receipt of copy of this order.

15. The present writ petition is allowed in above terms.

December 07, 2023

harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No