

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

211

**CWP No.5295 of 2017
Date of Decision:22.05.2023**

GIANO DEVI

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.Harish Bhardwaj, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

1. This petition has been filed by the petitioner under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing the order dated 29.09.2016 passed by the respondent No.2 declining the prayer of the petitioner for grant of Rs.5,00,000/- towards ex-gratia compensation as per the 2005 and 2006 schemes.

2. The husband of the petitioner was employed in Haryana Police, who died in harness on 18.12.1997. After covering different stages of litigation, ultimately CWP No. 12960 of 2013 was filed in the High Court, assailing the order dated 09.01.2012, vide which the claim of the petitioner for grant of compassionate financial assistance to the tune of Rs.2,50,000/- as well as giving compassionate appointment was rejected. The writ petition was decided on 08.12.2014.

3. The operative paragraphs No.14 to 16 of the order

dated 08.12.2014 are reproduced hereunder:-

“14. Therefore, in view of the above discussion, this petition is allowed. The respondents are directed to provide financial assistance to the petitioner to the tune of Rs.2,50,000/-, in terms of Rules 6 and 8 of the aforesaid Rules of 2006, read with the instructions dated 16.3.2011, within a period of two months from the date of receipt of a certified copy of this order.

15. Mr.Ravi Verma, learned counsel for the petitioner, submitted that since the petitioner has been denied her lawful right, she would also be entitled to interest for delayed payment of the financial assistance.

Though no specific prayer in that regard has been made in the writ petition, however, keeping in view the fact that the right of the petitioner has been wrongly denied, the oral prayer is accepted, in terms of clause 3 of the prayer clause made in the writ petition, i.e. for issuance of a writ, order or direction which is deemed fit in the peculiar facts and circumstances of the case. However, since the application was made by the petitioner for grant of financial assistance in terms of the Rules of 2006, in lieu of her earlier application for grant of compassionate appointment to her son, only in June, 2011, interest on the aforesaid sum of Rs.2,50,000/-, @ 12% per annum, would be paid to her w.e.f. 1.7.2011, till the date that actual payment is made to her.

16. In view of the wholly unreasonable stand taken

by the respondents, flying in the face of their own rules and instructions, the petitioner shall also be entitled to costs of Rs.20,000/-.

(Amol Rattan Singh)
Judge”

08.12.2012

4. Evidently, the petitioner was awarded a sum of Rs.2,50,000/- with interest @ 12% per annum w.e.f. 01.07.2011. The petitioner in respect of her claim to the tune of Rs.5,00,000/-, filed LPA No.102 of 2016 and the same was decided vide order dated 25.07.2016 with the observations that so far as appointment on compassionate ground was concerned, there was no scope for interference, however, the petitioner's claim as regards grant of monetary assistance of Rs.5,00,000/- under the 2005 or 2006 schemes was held to be worth re-consideration. LPA was disposed of by modifying the order passed by the learned Single Judge dated 08.12.2014 to the extent that at the first instance the claim of the petitioner for grant of financial assistance to the tune of Rs.5,00,000/- under the 2005 or 2006 schemes shall be considered and if the petitioner is found to be entitled, the payment along with interest as awarded by the learned Single Judge, shall be made forthwith.

5. In pursuance of the order passed by the Division Bench on 25.07.2016, the competent authority rejected the claim vide order dated 29.09.2016 and that is how the present writ petition came to be filed.

6. Learned counsel for the petitioner, by referring to para No.6 of the 2005 policy, submits that all the 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 Government Employees Rules, 2006.

7. Evidently, the case of the petitioner for ex-gratia assistance was pending at the time of coming into force of the aforesaid rules, 2006. The Division Bench has also modified the order of the learned Single Judge to the extent that at the first instance the claim of the petitioner for grant of financial assistance to the tune of Rs.5,00,000/- under the 2005 or 2006 schemes shall be considered. Since the claim was pending at the time of coming into being of the aforesaid rules, therefore, the claim of the petitioner to the tune of Rs.5,00,000/- is justified.

8. Accordingly, this writ petition is allowed. The respondents are directed to compute the interest component with due date after adjusting the interest already granted and paid to the petitioner. The balance of the ex-gratia compensation shall be released to the petitioner within a period of two months from the date of receipt of certified copy of this Order.

(RAJ MOHAN SINGH)
JUDGE

May 22, 2023

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No