

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

**LPA-984-2018 (O&M)
in CWP 25988-2016
Date of decision:24.01.2023**

STATE OF HARYANA AND OTHERS

... Appellants

Versus

SUSHILA DEVI

... Respondent

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO,
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Hitesh Pandit, Addl. A.G., Haryana
for the appellant.

Ms. Amanpreet Kaur, Advocate for
Mr. Narender Pal Bhardwaj, Advocate for the respondent.

M.S. RAMACHANDRA RAO, J. (ORAL)

This appeal is filed by the State challenging order dated
12.01.2018 in CWP-25988-2016.

Respondent is the wife of Late Sandeep Kumar-Constable, who
was one of 1600 odd Constables, whose selection was set aside by Division
Bench of this Court on 16.02.1996 which was also confirmed by the Supreme
Court.

But the Supreme Court directed that all the candidates from the 1995 selection would be entitled to appear for fresh recruitment as Constables in 2001.

According to the respondent, her husband was again inducted/enrolled in Haryana Police w.e.f. 10.03.2003 as a Constable with No.5/478 in 5th Battalion, Madhuban and he was made regular in service with immediate effect. He was exempted from probation period, training period and medical on the basis of his earlier service.

The husband of respondent met with a road accident and succumbed to injuries and died on 15.04.2004.

The respondent is receiving only family pension after her husband's death, but the petitioner was denied both companionate appointment as well as ex-gratia under the 2003 Rules by order dt. 22.07.2016 passed by the Director General of Police, Haryana on the ground that her husband had not served the Government for 03 years.

She then filed CWP-25988-2016 claiming inter alia compassionate appointment as well as ex-gratia and challenging the said order dt. 22.07.2016 passed by the Director General of Police, Haryana.

Learned Single Judge considered the contentions of the appellant as well as those of respondent and relied on benefit granted to one PHC Kanwer Pal Singh No.14 YNR in respect of whom an order was passed by the Director General of Police, Haryana on 22.07.2016 and held that respondent's case is on parity.

Learned Single Judge then went on to consider the question whether the claim of the respondent should be processed under the Rules of 2003 or 2005 or by the comprehensive Rules promulgated by the State of Haryana in 2006, replacing previous policies restricting financial benefits but not providing employment. He held that the respondent had right of consideration under 2003 Policy in the first instance which gives right to both compassionate appointment and to financial assistance, but preferentially the claim deserves to be processed under the 2006 Rules to provide the petitioner the benefits in terms of the formula devised in Rule 6 of the said Rules. He held that the correspondence exchanged between respondent and the Department suggest that it has been in progress since 2004, but had not yielded any result except the Department declining the request by the impugned order. He held that the claim of compassionate appointment is being declined and it is a fit case to allow grant of financial assistance to her under the 2006 Rules.

Counsel for the State sought to contend that the learned Single Judge erred in placing reliance on the order passed in the case of PHC Kanwer Pal Singh and applying it to the case of the respondent and also giving benefit to the respondent under the 2006 Policy instead of 2003 Policy. He sought to contend that the husband of the respondent had not been re-selected after the Division Bench order setting aside his selection along with those of others on 16.02.1996 which was also confirmed by the Hon'ble Supreme Court on 17.07.2001 and, that he had been selected afresh in a later selection which took place in 2003.

We are of the opinion that this being a case of grant of ex-gratia to the widow of a Policeman whose husband had died within one year of

joining service, the State should have taken a compassionate view of the matter and not persisted in harassing her by filing this appeal and by raising technical pleas.

We are of the opinion that the order of the learned Single Judge does not warrant any interference in exercise of our Letter Patent Jurisdiction.

The appeal accordingly fails and is dismissed.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

24.01.2023
Sonia

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