

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-244-2024

Date of decision : 29.04.2024

Akwinder KaurAppellant
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. R.K. Arora, Advocate, for the appellant.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. The consideration in the present appeal is to the order dated 16.12.2023, passed by the learned Single Judge in CWP-21766-2021.
2. The learned Single Judge dismissed the writ petition, wherein the prayer was for the benefit of compassionate appointment under the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 (in short '2019 Rules').
3. The case of the writ petitioner (appellant herein) was that on account of death of her husband on 12.04.2019, after having served the Haryana Police for almost seven years, she was granted the benefit of financial assistance on 31.05.2019 for a period of 15 years upto 12.04.2034. It is the case of the writ petitioner that her case was processed under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (in short, 'the 2006 Rules') and the fresh Rules came into force on 02.08.2019, wherein an option as such was given for compassionate appointment or financial assistance. It is, thus, submitted that

certain other persons, whose cases had been kept pending, were granted the benefit of compassionate appointment, but the writ petitioner was granted the benefit of financial assistance. Relevant portion of Note I of Rule 3 of the 2019 Rules reads as under :-

*“**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 Departments of Deceased Government Employees Rules, 2006 or these rules. Option once exercised shall be final.”*

4. The learned Single Judge as such has referred to the fact that once the claim of the writ petitioner had been processed under the 2006 Rules, and the benefit of financial assistance having been granted to her, the claim as such could not be granted as per Note-I under Rule 3 of the 2019 Rules, since her case had already been considered. The 2019 Rules having come into force at a subsequent point of time, the benefit of compassionate appointment as such was not liable to be granted to her.

5. We are of the considered opinion that the whole purpose of granting financial assistance is to ensure that the family gets over the urgency of exigency of the situation on account of having lost its bread earner. The State acted accordingly and granted the benefit of financial assistance to the writ petitioner. Therefore, at this point of time, to submit that the State should have waited for the new Rules to come in force, so that the writ petitioner could have got the benefit of compassionate appointment, is an argument of

desperation. The Apex Court has already commented that the appointment on compassionate basis is an exception to the Rule and not in normal circumstances. Reliance in this regard can be placed upon the judgment of the Apex Court in **Umesh Kumar Nagpal Vs. State of Haryana and others, 1994 (4) SCC 138**. The family as such being granted the benefit of financial assistance was the purpose of the scheme, which was in force at the time of death of the employee. The Full Bench judgment of this Court in **Krishna Kumari Vs. State of Haryana, 2012 (2) SCT 736** mandates the date of death of the employee, which is the relevant date for consideration. The relevant observations read as under :-

“In view of this clear enunciation of law we cannot but come to the conclusion that rules applicable on the date of death/incapacitation of an employee need to be followed. Needless to observe it is upto the authority to consider the application without inordinate delay and take a decision thereon. In the eventuality application remains pending for considerable period and some other policy comes into operation, no fault can be found on part of the employee. This appears to be the principle recognized by the apex court in its recent judgment in Bhawani Prasad Sonkar’s case. As held therein, application for compassionate employment has to be preferred without undue delay and has to be considered within a reasonable period of time as compassionate appointment is to meet the sudden crisis on account of death or invalidation of the bread winner of the family. We, thus, come to the conclusion that in case an application is made by the dependent belatedly or is considered after inordinate delay, basic requirement of meeting the immediate crisis becomes redundant. Since the objective of the policy is to rescue the family from sudden event plunging it into penury, consideration of application after number of years would be beyond the principles

accepted by the apex court in its various decisions. In such circumstances, it would be difficult to accept the exception to the general rule of employment as envisaged by Articles 14 and 16 of the Constitution of India. We answer the reference accordingly.”

6. At that time, 2006 Rules were in force. The said Full Bench judgment has not been modified by the Apex Court. Similarly, three Judges Bench in **State of Madhya Pradesh and others Vs. Amit Shrivastava, 2020 (10) SCC 496**, as such has held that there cannot be any inherent right to compassionate appointment but rather, it is a right based on certain criteria, especially to provide succour to a needy family. The policy as existing on the date of demise would be the relevant criteria as such. In such circumstances, keeping in view the law, which has already been settled, we do not find any tangible reason to hold that the order of the learned Single Judge is not sustainable.

6. Appeal is, accordingly, dismissed *in limine*.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

April 29, 2024
ndj

Whether speaking/reasoned	Yes
Whether reportable	No