

111

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

CWP-4611-2024

Date of Decision: 06.03.2024

ASHOK KUMAR

...Petitioner

Vs.

STATE OF HARYANA AND ANOTHER

...Respondents

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

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

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that the father of the petitioner namely Hawa Singh who was appointed as PTI in the Department of Education in the year 1987 on *ad hoc* basis, unfortunately died while in service in the year 1993, after his services were regularized on 01.01.1991. At the time of death of the father, the petitioner was minor and the petitioner intended to get the compassionate appointment on attaining the age of majority.

2. Learned counsel for the petitioner argues that the petitioner applied for the grant of compassionate appointment which was declined by the respondents and ultimately, being satisfied with the non-grant of the compassionate appointment, in the earlier petition i.e. CWP No. 5277 of 2020, the petitioner gave a statement that he will be satisfied in case, the ex-gratia amount admissible to the dependent family be released to the petitioner and the writ petition was disposed of with the direction to the respondent to examine the said prayer of the petitioner and now, by the

impugned order dated 14.09.2023, a copy of which has been appended as Annexure P-15, the said benefit has been declined to the petitioner on the ground that in the year 1993, the ex-gratia policy of the year 1991 was in operation and under the said policy, no amount under the ex-gratia was admissible to the family of the deceased employee.

3. Learned counsel for the petitioner argues that though, it is correct that under 1991 policy, no ex-gratia benefit was admissible but, the petitioner is entitled for the benefit under the Rules of 2005, copy of which has been appended as Annexure P-11.

4. Learned counsel for the petitioner further submits that under Clause 2(i) of 2005 Policy, the petitioner is entitled for a sum of Rs. 5,00,000/- as ex-gratia amount which the respondents have wrongly denied to him while passing the impugned order dated 14.09.2023 (Annexure P-15)

5. Notice of motion.

6. On the asking of the Court, Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and submits that as per the settled principle of law settled by the Full Bench of this Court in **Krishna Kumari Vs. State of Haryana, CWP No. 4303 of 2009 decided on 13.12.2016, 2012 (2) RSJ 473** the policy which is in operation on the date of the death of an employee is to be taken into account for the grant of all the consequential benefits and as, the death of the father of the petitioner occurred in year 1993 when 1991 policy was in operation, the same can only be made applicable and not 2005 policy, which came into existence after 12 years of the death of an

employee hence, the order dated 14.09.2023 Annexure P-15 is perfectly valid and legal.

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

8. The claim of the petitioner is that though his father died in the year 1993 but, for the grant of financial assistance, the policy of the year 2005, which was made operational on 18.11.2005 (Annexure P-11), should be made applicable.

9. The said argument is to be decided on the basis of the settled principle of law. The full bench of this Court in **Krishna Kumari's case (supra)** has held that the policy which was in operation at the time of the death of an employee is to be made applicable for the grant of relief to the dependents of the deceased employee and not the subsequent policy unless and until, the said policy envisages the grant of the said benefits.

10. In the present case, the death of the employee concerned was in the year 1993 and concededly, at the relevant time the 1991 policy for the grant of benefits such as compassionate appointment and financial assistance was in operation. The petitioner has already given up his claim for the grant of compassionate appointment and the only question that arises is whether under 1991 policy, any ex-gratia financial assistance was admissible to the petitioner or not.

11. In the impugned order it is a categorical stand of the respondent that no benefit under the ex-gratia policy was admissible to the petitioner keeping in view the ex-gratia policy dated 27.03.1991 (Annexure P-1) which was applicable at the time of the death of the father of the petitioner,

that being so, the impugned order passed by the respondent cannot be termed as arbitrary or illegal.

12. The arguments of the learned counsel for the petitioner that policy of the year 2005 should be made applicable for the grant of ex-gratia financial assistance, cannot be accepted for the reason that the said Rules are prospective in nature which is clear from the notification dated 18.11.2005 (Annexure P-11). Coupled with the judgment of the Full Bench in Krishna Kumari's case (supra) as only the instruction which was applicable at the time of the death can be made applicable, hence, the plea of the petitioner that 2005 Rules should be made applicable for the grant of financial assistance, cannot be accepted.

13. At this stage, learned counsel for the petitioner submits that after the year 1991, 1995 policy was invoked under which, the respondents are liable to consider the claim of the petitioner. It may be noticed that 1991 and 1995 policy only relates to the grant of compassionate appointment, which benefit, the petitioner has already relinquished before this Court in the earlier proceedings and hence, no benefit of 1995 policy can be given as being claimed in the present petition.

14. No ground for interference by this Court is made out.

15. The present petition is dismissed.

(HARSIMRAN SINGH SETHI)
(JUDGE)

06.03.2024

kv

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