



CWP-7849-2020

-1-

231

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

CWP-7849-2020

Date of Decision: 25.07.2024

Dharmo Devi

..... Petitioner

Versus

Haryana Vidyut Prasaran Nigam Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. N.C. Manchanda, Advocate,
for the petitioner.

Mr. Samuel Gill, Advocate for
Mr. R.D. Bawa, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 13.01.2011 (Annexure P-21) and reply dated 18.03.2020 (Annexure P-23) vide which the compassionate financial assistance has been declined to the petitioner on the account of death of her husband, namely, Raj Kumar, Safai Karamchari, who expired on 08.02.2005 in view of Clause 8(b) of Compassionate Rules and further issuance of a writ in the nature of *mandamus* directing the respondents to give the compassionate financial assistance to the tune of Rs.5 lacs in view of the Compassionate Rules, 2003 and Rules 2006 and release the monetary benefits in favour of the petitioner on account of death of her husband.

**CWP-7849-2020**

-2-

2. The facts of the present case are that the husband of the petitioner was working as Safai Karamchari in the respondent-Nigam on regular basis and he died on 08.02.2005. The respondents-Nigam had been bringing out various policies for compassionate appointment and for compassionate financial assistance from the years 2003, 2005 and 2006 and thereafter, also many other policies were issued. The petitioner had applied for compassionate appointment and also for the compassionate financial assistance immediately after the death of her husband, namely, Sh. Raj Kumar. The various documents were also submitted which starts from Annexure P-1 which have been annexed with the present petition. On 08.06.2005, a letter was written by the Superintending Engineer (Admn.), DHBVN, Hisar to the Superintending Engineer (OP) Circle, DHBVN, Hisar vide Annexure P-4 that the employees, who have died, their compassionate appointment/financial assistance cases are still awaited and same are supposed to be disposed of within three years. The husband of the present petitioner, namely, Sh. Raj Kumar, figured in the list of the officials which has been mentioned in the aforesaid letter (Annexure P-4). There was another letter dated 16.05.2005 written by the Superintending Engineer 'OP' Circle, DHBVNL, Hisar to the Chief Engineer 'OP', DHBVN, Hisar with a subject pertaining to the applications for Ex-Gratia grant in respect of Sh. Raj Kumar and it was desired that various documents which were enumerated in the aforesaid letter be supplied. On 08.09.2005, a letter was written by the Under Secretary/HR-II for Superintending Engineer (Admn.), DHBVNL, Hisar to the Chief Engineer 'OP', DHBVN, Hisar with regard to the compassionate appointment of the dependent of the husband of the

**CWP-7849-2020****-3-**

petitioner in which it was so stated that the request for compassionate appointment is not maintainable but at the same time it was also written that the Ex-Gratia appointment case as received is returned herewith for taking appropriate action.

3. Thereafter, another letter dated 09.10.2006 was written by the Superintending Engineer/Administration, DHBVN, Hisar to the Superintending Engineer 'OP' Circle, DHBVN, Hisar vide Annexure P-7 with regard to the subject so stated that pertaining to the compassionate assistance to the family of Sh. Raj Kumar, Safai Karamchari and it was specifically stated in the aforesaid letter that the subject cited case may be settled in terms of Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006. Again, a letter dated 29.05.2007 was written by the Deputy GM 'OP' Division No.1, DHBVN, Hisar to AGM, 'OP' Civil Line SD, DHBVN, Hisar vide Annexure P-7 (colly.) with the request that the Superintending Engineer (Admn.) has desired to settle the compassionate assistance case of the husband of the petitioner and some responsible officer be deputed in this regard to obtain the option from the deceased family. Vide Annexure P-8 (Colly.) dated 22.08.2008, again a letter was written by the Xen 'OP' Division No.1, DHBVN, Hisar to Superintending Engineer 'OP' Circle, DHBVN, Hisar with regard to supply of all the documents pertaining to the petitioner. Thereafter, again vide letter dated 05.09.2008, the documents were resubmitted. A letter was written thereafter to the petitioner by the Xen 'OP' Division No.1, DHBVN, Hisar on 31.10.2008 to supply various other documents. However, the GM/Administration, DHBVN, Hisar wrote a letter

**CWP-7849-2020****-4-**

to the DGM/OP Division No.1, DHBVN, Hisar vide Annexure P-10 dated 12.11.2008 that the prescribed period of three years has expired and the case becomes time barred. The petitioner gave a legal notice dated 18.03.2020 vide Annexure P-23 which was replied by the respondents wherein the relief has been refused to the petitioner for compassionate assistance in terms of Policy of the year 2003.

4. Learned counsel appearing on behalf of the petitioner submitted that once the entire communication took place and it started immediately after the death of the husband of the petitioner and much before the Policy of the year 2006 and it was under the active consideration by the respondents themselves, then the petitioner was entitled for the compassionate financial assistance in terms of the policy of the State of Haryana for the year 2006 whereas her claim has been rejected after a number of years in terms of Policy of 2003 which stood repealed and submitted that the petitioner was entitled for the compassionate financial assistance in terms of the Policy of 2006.

5. On the other hand, learned counsel appearing on behalf of the respondents submitted that the Policy of 2006 will not apply to the petitioner because the husband of the petitioner died in the year 2005 and that the petitioner applied for financial assistance in the year 2009 vide Annexure P-15.

6. I have heard the learned counsel for the parties.

7. So far as the argument raised by the learned counsel for the respondents with regard to Annexure P-15 is concerned, the same is totally misconceived and unsustainable in view of the fact that the entire process



started immediately after the death of the husband of the petitioner wherein the matter not only of compassionate appointment but also of the compassionate financial assistance was under the consideration by the respondent-Nigam which is clear from the aforesaid Annexures P-2 to P-5. Therefore, it is very clear that the case of the petitioner for grant of compassionate financial assistance was in existence, pending and under consideration with the respondent-Nigam before the coming in the force of Policy 2006 but it was never granted to the petitioner.

8. The State of Haryana had framed different policies for the purpose of grant of compassionate financial assistance. The Policy of 2003 which has been annexed with the reply vide Annexure R-2 was superceded by another Policy of 2005. The Policy of 2005 was again superceded by a fresh Policy of 2006. As per Clause-6 of the Policy of 2006, it has been specifically provided that those cases which are pending consideration, those cases will be considered in terms of Policy of 2006. The relevant portion of the aforesaid clause is reproduced as under:-

“6. All 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.”

9. The relevant portion whereby the Policy of 2003 has been repealed by the Policy of 2005 is reproduced as under:-



“19(1) The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 which are in force immediately before the commencement of these rules are hereby repealed:

Provided that any order made or action taken under the rule so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

(2) Pending cases of all those deceased Government employees whose family members are eligible under the rules so repealed, shall be disposed of in accordance with the old rules at the commencement of new rules.”

10. The relevant portion whereby the Policy of 2005 has been repealed by the Policy of 2006 is also reproduced as under:-

“8. The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005, which are in force immediately before the commencement of these rules are hereby repealed:

Provided that 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 these rules:-

Provided further that in all pending cases where the family exercises the option to receive the financial assistance under these rules, the calculation of the period and payment shall be made from the date of notification of these rules.”

11. A perusal of annexures which have been attached with the present petition would clearly show that the case for grant of compassionate financial assistance was pending and was under consideration with the



CWP-7849-2020

-7-

respondent-Nigam prior to 2006 but it was neither settled nor any amount has been paid to the petitioner and therefore, in terms of the Clause-6 of the aforesaid Policy of 2006, the petitioner is entitled for grant of compassionate financial assistance.

12. While replying to the legal notice, the respondents have refused the relief to the petitioner by applying the Policy of 2003, which stood repealed and even otherwise also, no reference was made to the 2006 Policy.

13. In view of the aforesaid facts and circumstances, the present petition is allowed. The respondents are directed to consider the case of the petitioner in terms of Policy of 2006 and thereafter, pass an order pertaining to the same because the claim of the petitioner for grant of compassionate financial assistance was pending at the time of coming into force of the 2006 Policy and therefore, Clause-6 of the 2006 Policy is directly applicable to the present petitioner. The aforesaid order shall be passed by the respondents-Nigam within a period of three months from today and in case the petitioner is found to be entitled in terms of the Policy of 2006, then the compassionate financial assistance which was payable to the petitioner on the coming into force of 2006 Policy shall be paid to her from the same date along with interest @6% per annum (simple). The aforesaid benefit shall be paid to the petitioner within a period of two months thereafter. In case, the petitioner is aggrieved by any order passed against her, then she shall be at liberty to file a fresh petition before this Court in accordance with law.

25.07.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |