

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

227

CWP-13096-2019 (O&M)

Date of decision: 03.04.2024

Durga Devi and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Dinesh Kumar, Advocate
for the petitioners.

Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY. J (Oral)

1. The prayer in the present Civil Writ Petition under Article 226 of the Constitution of India, is for quashing the impugned order No.4877 dated 26.10.2018, Annexure P-6, and directing the respondents to consider the case of the petitioner No.2 for grant of compassionate appointment.

2. Learned counsel would submit that husband of petitioner No.1, who was employed as Senior Assistant in the Irrigation Department, had died in harness on 12.02.2017 during the period of extension in service and thereafter the claim of petitioner no.2 for appointment on compassionate ground to the post of Clerk has been rejected on the solitary premise of the instructions dated 27.12.2016, having been withdrawn vide Memo No. 22/22/2014-3FP/2/821 dated 29.03.2017. The issue as involved in the present petition, has already been dealt with and decided by this Court in **Ajay Kumar vs. State of Punjab and others**, CWP-20693-2019 decided on 12.09.2019; **Gurpreet Singh vs. State of Punjab and others**, CWP-24534-2019 decided on 05.09.2019 and **Bhupinder Kumar vs. State of Punjab and others**, CWP-5175-2018 decided on 17.12.2019. As per judgment of this Court in **Krishna Kumari vs. State of Haryana and others**,

2012 (2) SCT 736, the rules applicable on the date of death/incapacitation of

an employee need to be followed. The compliance to the judgement in **Ajay Kumar** (supra) was made during the pendency of COCP-2893-2020 filed, which were disposed of on the statement made by the learned State counsel that the petitioner had been granted appointment on compassionate grounds. The operative portion of **Ajay Kumar** (supra), reads thus:-

“7. The perusal of the record shows that concededly the father of the petitioner was serving as Baildar at the time of his death on 14.09.2014. The aforesaid policy relied upon by the learned counsel for the petitioner clearly states that the same has to be implemented w.e.f. 08.10.2012. This policy held the field till its withdrawal on 29.03.2017. In the aforesaid premise, the impugned orders dated 04.12.2014 (Annexure P-9) and 06.04.2017 (Annexure P-11) seem to have been passed by overlooking the said Policy. The same are accordingly set aside being not sustainable in law.

8. Without commenting on the merits of the case, the writ petition is disposed of with a direction to the respondents to pass a fresh appropriate order by according the benefit of the Policy/ Instructions dated 27.12.2016 (Annexure P-5) to the petitioner, in accordance with law. ”

3. Learned State counsel despite his best efforts is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

4. In view of the aforesaid, the impugned order dated 26.10.2018, Annexure P-6 is set aside and the present petition is disposed of in terms of the judgment passed in **Ajay Kumar** (supra).

(AMAN CHAUDHARY)

03.04.2024
Hemant

JUDGE

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