

CM-5405-CWP-2024 in/&
CWP-16143-2020

-1- 2024:PHHC:045924

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105+234

CM-5405-CWP-2024 in/&
CWP-16143-2020
Date of Decision :04.04.2024

Mehak Narula

...Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rishav Sharma, Advocate and
Mr. Harpal Singh Saini, Advocate for the petitioners.

Mr. Harish Rathee, Senior DAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-5405-CWP-2024

As prayed for, application is allowed.

CWP-16143-2020

1. In the present petition, grievance of the petitioner is that the petitioner is entitled for the grant of financial assistance as per the Haryana Civil Services (Compassionate Financial Assistance and Appointment) Rules, 2019 (in short, '2019 Rules'), which came into effect from 01.08.2019 (Annexure P/2).
2. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

3

Mother of the petitioner namely, Arun Bala, who was a regular

employee of the respondent-department and was working as Senior Scale Stenographer unfortunately died on 28.10.2004 while in service. Petitioner being daughter, who was minor at that relevant time, has raised her claim for the grant of monthly financial assistance by placing reliance upon 2019 Rules.

4. Upon notice of motion, respondents have filed reply wherein, it has been stated that as the mother of the petitioner died in October 2004, when the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 (in short. '2003 Rules') were in operation, the said 2003 Rules will be applicable and under the said rules, the petitioner was not eligible either for the grant of compassionate appointment or financial assistance and hence, claim being raised by the petitioner under the 2019 Rules is not maintainable.

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

6. It may be noticed that keeping in view the judgment of the Full Bench of this Court in **Krishna Kumari vs. State of Haryana 2012 (2) SCT 736, 2012 (2) RSJ 473**, the rules which were applicable at the time of death of an employee are to be taken into consideration to ascertain as to whether the claimant is entitled for any financial benefit or not. In the present case, it is a conceded position that at the time of death of the mother of the petitioner, 2003 Rules were applicable. As per Rule 8(d) of the 2003 Rules, no benefit of 2003 Rules can be claimed in case the spouse of the deceased employee is in government service.

7. Father of the petitioner is also a Government employee and was serving at the relevant time in the Government of Haryana. That being so,

under the 2003 Rules, no benefit can be granted to the petitioner keeping in view Rule 8(d) of the 2003 Rules.

8. Argument of the learned counsel for the petitioner that the petitioner is entitled for financial assistance under the 2019 Rules, reliance is being placed to Rule-22 of the said 2019 Rules 2019, which is as under:-

22. (1) (a) where both husband and wife are employees of a department or an organization under Haryana Government; or
(b) the spouse is an employee of other Government or;
(c) the spouse is a pensioner of Haryana or any other Government, and both or either of them are/is governed by the provisions of these rules. The compassionate financial assistance in respect of deceased Government employee of Haryana shall be admissible to the eligible family member of the deceased or missing Government employee. In the event of death or ineligibility of surviving spouse before the completion of prescribed period, the compassionate financial assistance shall be payment to the next eligible family member in addition to family pension, if any, in respect of deceased pensioner simultaneously.”

9. It may be noticed that 2019 Rules only came into force w.e.f. 01.08.2019 and death of the mother of the petitioner had occurred approximately 15 years prior to the promulgation of the said 2019 Rules. Hence, under no circumstances, 2019 Rules can be made applicable upon the petitioner keeping in view the judgment of the Full Bench of this Court in *Krishna Kumari (supra)*, as per which, only the rules which were in operation at the time of the death of employee concerned are to be taken into account for considering the claim of the claimant.

10. Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the

writ petition is accordingly dismissed.

11. Civil miscellaneous application, if any, is also disposed of.

April 04, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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