

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

CWP-14350-2018 (O&M)

Date of decision: 07.08.2024

Kamla Devi and Another

....Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Vaibhav Sharma, Advocate for the petitioners.

Mr. Harish Rathee, Sr. DAG Haryana.

AMAN CHAUDHARY, J.

1. Aggrieved by orders dated 13.02.2013 and 04.02.2017, whereby ex-gratia employment and other benefits were denied, the petitioners have approached this Court.

2. As it emerges from the averments, one Pratap Singh, who was working as Assistant Sub-Inspector in Haryana Police, died in harness on 14.01.1995, leaving behind wife, namely, Kamla Devi (petitioner No.1), four daughters and one son (petitioner No.2). An application was made on 10.02.1995 by petitioner No.1, which was duly forwarded on 28.02.1995, Annexure P-1, by the Superintendent of Police to the Director General of Police, for entering the name of her son in the waiting register for providing job under ex-gratia scheme.

3. On attaining majority, while still studying in class 12th, a representation dated 28.09.2012, Annexure P-2, was made by petitioner No.1 to the Deputy Commissioner of Police, Ambala for granting compassionate appointment which was also forwarded to Director General of Police, to provide him the job accordingly, which, however was rejected vide order dated

13.02.2013, Annexure P-5, by the DGP on the premise that as per New Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, there is no provision for ex-gratia employment. Even thereafter, legal notice dated 05.12.2016, Annexure P-7, has been served, which was also declined vide order dated 04.02.2017, Annexure P-8, on the same grounds.

4. Reference on behalf of the petitioner is made to the policy dated 27.03.1991, Annexure P-6 as per which, the application ought to have been made within 3 years of death, which in the present case was, and on attaining the age of 17 years, the Department has to recommend it to the Government within 6 months in every aspect and in such default, the whole responsibility shall be of the Department and not of the Government. As per Instructions dated 08.05.1995, the same condition of applying in 3 years and that the prescribed qualification for Class-III post could not be relaxed and it is thus, petitioner No.1 not being qualified had sought for the appointment to her son-petitioner No.2.

5. Hon'ble the Supreme Court in **State of Madhya Pradesh and Others vs. Ashish Awasthi**¹, held that the claim made has to be considered in accordance with the policy that was in effect at the time of passing and not the subsequent scheme. A similar view was taken in **Krishna Kumari vs. State of Haryana and others**², wherein the Full Bench of this Court adjudged that Rules applicable at the time of death/incapacitation of an employee are to be followed, whilst observing that "In our considered view date of death of an employee is an important factor to be taken into consideration as schemes for compassionate appointment are floated with a view to provide immediate relief to families of deceased employees to meet the financial crisis they face on death of sole bread

¹ 2022 (2) SCC 157.

² 2012 (2) SCT 736.

winner. Travails of the family begin immediately thereafter. In that context, date of death assumes significance. Purpose of providing compassionate appointment is to mitigate the hardship at that time. Thus policy applicable on the date of death needs to be invoked to provide immediate relief. Application seeking compassionate appointment should be moved promptly thereafter by his dependent and considered by the employer without undue delay.”

6. It is trite that the Scheme or Instructions applicable at the time of death ought to be applied and not any subsequent ones. The rationale behind offering compassionate appointment is to accrue benefit to the bereaved family of deceased employee, being to alleviate the hardship experienced by them at that critical juncture, therefore, it was imperative on part of the Department to have acted in a fair and just manner, by considering the claim of the impecunious petitioners invoking the policy that was in vogue at the relevant time.

7. On the anvil of the aforesaid, the impugned orders are hereby quashed. The respondents are directed to consider petitioner No.2 for ex-gratia employment as per the policy dated 27.03.1991 and appoint him if found to be eligible in terms thereof. Needful be done within a period of two months from the date of receipt of a certified copy of this judgment.

8. Pending applications, if any, stand disposed of.

(AMAN CHAUDHARY)
JUDGE

07.08.2024
M.Kamra

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