

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

2024:PHHC:023158

CWP-18742-2018

Date of Decision: 20.02.2024

BIMLA DEVI

...Petitioner

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. M.S. Randhawa, Advocate for the petitioner.
Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that the husband of the petitioner who was working on the post of Sevdar unfortunately died while in service on 17.12.2004 and keeping in view the instructions issued by the Government of Haryana, the eligible family member was entitled for the financial assistance keeping in view the Haryana Compassion Assistance to the Dependant of Deceased Government Employees Rules, 2006.

2. Learned counsel for the petitioner argues that a period of 03 years has been fixed to exercise the option for the grant of benefit after the death of an employee and the petitioner exercised the option on 08.11.2006 a copy of which has been appended as Annexure P-2, which is within a period of 02 years of the death of the husband of the petitioner but, by the said date new rules had come into force known as Haryana Compassionate Assistance and Employment to the Dependents of Deceased Government Employees Rules, 2005 and under the said 2005 rules, the financial assistance was to the tune of Rs.5,00,000/- whereas the petitioner had only been paid a sum of Rs.2,50,000/- as admissible under 2003 Rules.

3. Learned counsel for the respondent submits that once the petitioner exercised the option on 08.11.2006, for which the benefit has already been released to her and as, on the date of death, 2003 Rules were applicable under which, ex-gratia amount of Rs.2,50,000/- was admissible and the same has already been released.

4. Learned counsel for the respondent further submits that timeline for exercising option under 2005 Rules was only 06 months whereas, the exercising of the option by the petitioner on 08.11.2006 was beyond the said timeline, no benefit under 2005 Rules can be claimed *qua* the financial assistance.

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

6. It is a conceded position that a dependent of the deceased employee can exercise the option for the grant of financial benefits within a period of 03 years from the date of death and the petitioner was eligible to raise her claim upto December 2007. Concededly, the petitioner had raised the claim on 08.11.2006, which is prior to the expiry of 03 years, the period which has been granted by the respondent themselves to a family member of the deceased employees to raise his/her claim.

7. On the date when the petitioner raised her claim, 2005 Rules were in promulgation hence, respondents were under obligation to consider the claim of the petitioner under the said Rules and especially when the petitioner has raised her claim, keeping in view the time frame granted by the respondent.

8. An argument of learned counsel for the respondent that in case the benefit under 2005 Rules was to be claimed, the same could have only be raised within a period of 06 months of the promulgation of 2005 Rules and as the petitioner has only raised her claim in the year 2006, the same is liable to be rejected, has to be appreciated keeping in view the fact that that a time limit of 03 years was given to the petitioner to claim the financial benefits. Once, the said benefit was claimed within a period of 03 years from the death, the claim of the petitioner to get the benefit under 2005 Rules could not have been declined that the same should have been raised within a period of 06 months of the promulgation of 2005 Rules. A subsisting claim, which could be claimed within a period of 03 years, and has been claimed by the petitioner within a period of 03 years from the death of her brother, the same was liable to be considered under 2005 Rules especially when, the claim under 2003 Rules was subsisting upto the promulgation of 2005 Rules.

9. Keeping in view the above, the claim of the petitioner is allowed. The respondents are directed to release another sum of Rs.2,50,000/- in favour of the petitioner within a period of 08 weeks from the date of receipt of the certified copy of this order.

(HARSIMRAN SINGH SETHI)
(JUDGE)

20.02.2024

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