

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(116)

LPA-486-2024 (O&M)

Decided on : 20.02.2024

General Manager, Administration, Dakshin Haryana Bijli Vitran Nigam Limited, Hisar and others

.....Appellant(s)

Versus

Anil Kumar and another

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Deepak Balyan, Advocate for the appellant (s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1171-LPA-2024

Application for condonation of delay of 94 days in re-filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 94 days in re-filing the appeal is condoned.

CM stands disposed of.

CM-1172-LPA-2024

Application for condonation of delay of 171 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the official. Delay of 171 days in filing the appeal is condoned.

CM stands disposed of.

LPA-486-2024 (O&M)

The present appeal is directed against the order of the learned Single Judge dated 10.03.2023 passed in **CWP-15644-2013 ‘Anil Kumar Vs. State of Haryana and others’**, wherein the complete benefit of financial assistance under the Haryana Compassionate Assistance to the Dependent of Deceased Government Employee Rules, 2006 (hereinafter referred to as ‘2006 Rules’) was granted as per Rule 5(1)(c). The same was to be released to the writ petitioner within a period of two months from the date of receipt of certified copy, failing which it was to be paid with interest @ 7% per annum. The learned Single Judge was of the view that very object of the 2006 Rules is

to mitigate the sudden financial crisis, which had fallen upon the family of the deceased government employee on account of loss of breadwinner. It was noticed that the writ petitioner was 23 years of age on the death of his father and, therefore, while placing reliance upon the Rules itself, since the deceased was only 54 years of age, it was held that the benefit of financial assistance would be given for a period of 7 years or till the date the employee would have retired from government service on attaining the age of superannuation. The defence as such that the Family Pension Scheme, 1964 would be applicable and restricted period of pension till the age of 25 years of the writ petitioner, was not accepted.

2. A perusal of the writ petition would go on to show that the respondents vide order dated 19.05.2009 (Annexure P-1) apparently had granted the limited relief of monthly assistance to the dependent of the deceased employee w.e.f. 22.06.2007 to 31.12.2008 under 2006 Rules. The said order does not specify categorically that what was the reason to limit the relief which has now been granted and it was admissible as per 2006 Rules itself. The State in its written statement sought to fall back upon the Family Pension Scheme, 1964 to limit the assistance till the age of 25 years of the dependent, wherein it is provided that son/un-married daughter can get pension till the age of 25 years of age.

3. We are of the considered opinion that firstly the order itself did not refer to the relevant provisions. It is settled principle that respondents cannot improve in their written statement, what has not been mentioned in the impugned order. Reliance can be placed upon the judgment passed in **Mohinder Singh Gill Vs. Chief Election Commissioner, (1978) 1 SCC 405**, wherein it has been held that respondents cannot improve their case in the written statement and cannot plead beyond the order under challenge, which was non-speaking. Reliance in the impugned order has been placed upon 2006 Rules and this aspect was taken into consideration by the learned Single Judge.

4. The purpose of the said rules is beneficial and very clear to provide financial assistance to the family of a deceased government employee who dies in harness and, therefore, the restrictive approach which is sought to be applied cannot be said to be justified. The pension scheme would come into play as and when the State Government servant superannuated and then expires, whereby the restriction could be imposed upon the family members

regarding the right to receive till the age of 25 years of a dependent/legal representative of the employee. The sole purpose of 2006 Rules which is beneficial piece of legislation is to provide succour to the family members, who were left with no other source of income due to the sudden exigency of loss of the earning member. The appellants as such herein were frustrating the very purpose of the scheme itself of financial assistance.

4. Resultantly, we are of the considered opinion that there is no ground to interfere in the order of the learned Single Judge, which is well reasoned and passed on the basis of the rules itself. The present letters patent appeal is, accordingly, dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

20.02.2024
Naveen

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No