

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17424-2020 (O&M)

Decided on 26.08.2025

Beeno Devi

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Naveen Daryal, Advocate for the petitioner

Mr. Rahul Dev Singh, Addl. AG Haryana

Mr. Hitesh Pandit, Advocate for the respondent No.4

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuing a writ of mandamus directing the respondents to grant regular pension and conversion from EPF to GPF by change of his option for exercise by the petitioner. A further direction is sought to quash the order dated 09.09.2005 (Annexure P3) and grant her ex gratia employment after the death of her husband as per the Haryana Compassionate Assistance of Dependent of Deceased Employees Rules, 2003.

(2). The petitioner is the wife of late Shri Mahavir Singh who joined as Helper in the Haryana Roadways, Engineering Corporation Ltd. (a Govt. of Haryana undertaking). He was subsequently regularized in the year 1990 and was posted as Helper in the Workshop on regular basis w.e.f. 01.05.1992. The husband of the petitioner unfortunately expired on 23.01.2003 while in service leaving behind 3 daughters and 2 sons. Being widow of the deceased-employee, the petitioner submitted her representation dated 19.06.2003 (Annexure P1) before respondent No.4 – General Manager Engineering

Corporation requesting for grant of ex gratia appointment on compassionate grounds. In response to the letter dated 09.09.2005 (Annexure P3) written by the respondents for acceptance of ex gratia financial assistance, the petitioner accepted the same and an amount of Rs.2.50 lakhs in the shape of cheque dated 07.03.2006 was handed over to her. Claiming herself to be an illiterate lady, she now submits that she is entitled for compassionate appointment under the Rules as she was not aware of the consequences of accepting the compensation amount.

(3). Learned counsel for the petitioner contends that the as per the 2003 Rules and related instructions, the petitioner is entitled for compassionate appointment as well as financial assistance of Rs.5 lakhs whereas as per the new policy of 2005 issued by the Govt. of Haryana duly adopted by the respondent-Corporation, the salary in the shape of compassionate appointment is to be given to the family of the deceased i.e. the petitioner.

(4). It is argued that the as per the 2005 Rules, the period for maintaining the list for giving appointment on compassionate ground was fixed 4 years for those dependents of the deceased employees who have applied within a period of 6 month and as per Rule 19 of the said Rules, the pending cases will be dealt with under the 2003 Rules only.

(5). Learned counsel then urged that when on 02.01.2006, the respondents sought option from the petitioner for cash assistance, the name of the eligible family member of the deceased-employee was required to be maintained on the list in terms of the 2003 Rules for giving appointment on compassionate grounds. As regards the 2006 Rules, it is argued that the said rules came into force w.e.f. 01.08.2006 i.e. after the expiry of three years

validity of the list and as such in terms of Rules 6 & 8 of the 2006 Rules, the option is required to be given to the petitioner for lump sum ex gratia provided either under the 2003 or 2005 or 2006 Rules. Reliance has been placed on Sushila Devi vs. State of Haryana (CWP-9295-2008) decided on 09.07.2009.

(6). On the other hand, written statement has been filed by Sh. Rajeev Nagpal, General Manager of respondent No.4 wherein it has been averred that the present writ petition is not maintainable as respondent No.4 had not opted for regular pension scheme by conversion of EPF or GPF and the prayer made by the petitioner in this regard cannot be accepted in the absence of any such instructions/rules. It is further submitted that the Board of Directors in its 98th & 99th meetings (Annexures R4/1 to R4/5) approved the employers matching contribution @ 12% on actual pay plus DA to EPF w.e.f. November, 2003.

(7). As regards the petitioner's prayer for grant of ex gratia compassionate appointment to her, the same has been rejected by the respondents on the ground that the petitioner duly received Rs.2.5 lakh as ex gratia compensation under the Rules which was duly deposited in her bank account. Moreover, the petitioner went in slumber after the death of her husband on 23.01.2003 and challenged the impugned order dated 09.09.2005 after a gap of more than 15 years and as such she cannot escape the liability of delay and laches attached to her belated action. That apart, decision to grant ex gratia compensation vide letter dated 09.09.2005 was in acquiescence of her acceptance to the option which she exercised out of her free will which was otherwise as per 2003 Rules.

(8). It is also apparent that the instructions dated 14.01.2008 relied upon by the petitioner related to Bhakra Beas Management Board and the same

is not binding on the instrumentality of the State of Haryana and as such, there is no legal force in her argument to let her switch over from EPF to GPF Scheme in the absence of any Rules/instructions adopted by the respondent No.4.

(9). It is well settled proposition of law that compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner and thus, compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

(10). Guidance may be drawn from the judgment rendered by the Supreme Court in ***“Umesh Kumar Nagpal v. State of Haryana 1994(3) SCT 174”*** wherein it was unequivocally held that:

"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. "

(11). In the present case, the petitioner has duly accepted the financial assistance of Rs. 2.5 lacs as provided under the aforesaid letter, thus by her own act and conduct she is estopped from raising any grievance against the

aforesaid order/letter dated 09.09.2005 and that too after gap of 15 years. As noted above, a petitioner being widow of a deceased employee is seeking the benefits of conversion from contributory provident fund to general provident fund, which option the deceased employee ought to have exercised during his life time. If the deceased employee did not exercise the option to convert from EPF to GPF during their lifetime, the courts have generally denied posthumous conversion by legal heirs, including the wife.

(12). If no option was exercised by the concerned employees before the cut-off date, they would be deemed to have 'come over' to GPF. It was only a positive option exercised by the employees to continue to be under CPF which could have departed from such deeming provision. Once exercised, the option was final and as such, there could be no switchover from those who had consciously opted to be under CPF and as such, any exercise of option after the deadline or the cut-off or even after the death of the employee by his LRs/wife, would be inconsequential. This Court is thus disinclined to direct the respondents to permit the petitioner to exercise such option, at this stage.

(13). For the reasons afore-stated, this writ petition is dismissed being devoid of any merit.

26.08.2025

V.Vishal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No