

(2008) 01 P&H CK 0170
In the Punjab And Haryana At Chandigarh

Birmati

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 23-01-2008

Acts Referred:

Citation : (2008) 01 P&H CK 0170

Hon'ble Judges : Jaswant Singh, J; Jasbir Singh, J

Bench : Division Bench

Judgement

Jasbir Singh, J.—By filing this writ petition, the petitioner prays that a writ of certiorari be issued to quash order dated 6.10.2006 (Annexure P/5), vide which, claim of the petitioner, to get appointment on compassionate basis, was rejected. Husband of the petitioner died on 18.7.2005. Admittedly, at that time, the rules known as the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules 2003 (in short 2003 rules), were in vogue. The petitioner's application to get compassionate appointment was rejected vide order, under challenge, on the ground that in the meantime, new rules have come into existence on 3.8.2006 and she may get financial benefit, as provided under those rules. Hence, this writ petition.

2. Counsel for the petitioner states that it is not open to the respondents to consider her case under the new rules and she is entitled to get appointment on compassionate basis on the basis of 2003 rules. To say so, counsel for the petitioner has placed reliance upon ratio of judgment of the Hon'ble Supreme Court in *Abhishek Kumar v. State of Haryana and Ors.* 2007(3) RSJ 121. We feel that argument raised is perfectly justified. Their Lordships of the Supreme Court in the case of *Abhishek Kumar's* (supra), while dealing with a similar controversy observed thus:

5. Appellant herein had sought for appointment on compassionate grounds at a point of time when 2003 Rules were not in existence. His case, therefore, was required to be considered in terms of the Rules which were in existence in the year 2001. Evidently, in the State of Haryana a State-wise list is maintained. In

terms of the said list so maintained by the State of Haryana, the appellant was entitled to obtain an appointment on compassionate grounds. He was offered such an appointment by the State. It was the District Magistrate who came on the way and refused to provide for the post.

3. Admittedly, when husband of the petitioner died, rules framed in the year 2003, were applicable. In view of facts mentioned above, order Annexure P/5 is set aside and the authorities are directed to consider case of the petitioner, as claimed by her, under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules 2003. Needful be done within a period of two months from the date of receipt of a certified copy of this order.

4. Disposed of.