
(2009) 04 P&H CK 0141
In the Punjab And Haryana At Chandigarh

Sahib Kaur

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 20-04-2009

Acts Referred:

Citation : (2009) 4 SLR 298

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Tewari, J.—The petitioner is claiming that she should be given compassionate appointment since her husband was retired on medical ground and later on expired. Counsel for the petitioner has argued that a Division Bench of this Court on 20.12.2005 allowed an identical matter, bearing CWP No. 19693 of 2004 Sushil Kumar v. State of Haryana, in the following terms:

Consequently, we allow the present petition and direct the respondent to appoint the petitioner on compassionate ground to a post as per his entitlement under the policy decision of May 16, 1995. Necessary orders in this regard shall be passed within a period of three months from the date a certified copy of this order is received.

2. Counsel for the respondents has argued that as per Rule 19 of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, the instructions issued by the Haryana Government from time to time in respect of providing financial assistance and appointments under ex-gratia scheme were repealed. Rule 19 of the said Rules reads as follows:

19. The existing instructions issued by the Haryana Government from time to time regarding providing of financial assistance and appointments under ex-gratia scheme are hereby repealed:

Provided that an action taken under these rules and instructions so repealed shall

be deemed to have been taken under the corresponding provisions of these rules.

3. Counsel for the respondents has further argued that as per this rule, the petitioner cannot get the benefit he is claiming. He has relied upon a Division Bench judgment of this Court in *Kuldip Kumar v. Managing Director, Uttar Haryana Bijli Vitran Nigam* and Anr. 2008 (2) SCT 254.

4. I find that the case in *Kuldip Kumar* (supra) related to ex-gratia appointment on account of death and was decided on the basis that the petitioner therein was not a dependent. As regards reliance on Rule 19 (supra), this fact was considered by the Division Bench in *Sushil Kumar's* case (supra) in the following terms:

Even otherwise we find that the Rules, 2003 deal with only appointment on compassionate basis to the wards of deceased employees. There is no provision in the said rules for grant of employment or any other benefits to the wards of such employees who are retired on medical grounds. Thus, in these circumstances, the aforesaid situation would continue to be governed by the policy decision of the year 1995, since the Rules of 2003 do not deal with such a situation. It is not in dispute that under the policy decision of 1995 petitioner's case is fully covered by the aforesaid policy.

5. In the circumstances, in view of the binding precedent quoted above, I have no option but to allow this writ petition in the same terms. Consequently, this writ petition is allowed in the same terms as CWP No. 19693 of 2004 *Sushil Kumar v. State of Haryana*.