

(2022) 07 P&H CK 0094

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15019 Of 2022 (O&M)

Sourav

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 22-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 226, 227
Haryana Compassionate Assistance To The Dependents Of Deceased Government Employees Rules, 2006 — Rule 5
Government Of Haryana Formulated The Haryana Civil Services (Compassionate Financial Assistance Or Appointment) Rules, 2019 — Rule 4

Citation : (2022) 07 P&H CK 0094

Hon'ble Judges : Jaishree Thakur, J

Bench : Single Bench

Advocate : Malvika Singh

Final Decision : Dismissed

Judgement

Jaishree Thakur, J

1. The petitioner has approached this Court by way of instant writ petition under Articles 226/227 of the Constitution of India seeking an appropriate writ or direction to quash the impugned order dated 27.5.2022, wherein the petitioner has been held ineligible for compassionate appointment with a further prayer that the petitioner be granted compassionate appointment under the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019.

2. In brief, the facts are that the father of the petitioner (since deceased) was working with the Haryana Police Academy Madhuban. He was employed as a Cook on 12.10.1995 on daily rated/work charged/casual basis with the office of respondent No.3. He was subsequently regularized on 26.5.2006 with effect from 1.10.2003, however, he expired on 4.2.2016 due to natural causes. At the time of his death, the petitioner was minor, aged 14 years 3 months. The mother of the petitioner received compassionate assistance under Rule 5 of the Haryana

Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 ("the Rules of 2006" for short), as per the entitlement. Subsequent to the Rules of 2006, the Government of Haryana formulated the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 ("the Rules of 2019" for short), which came into effect on 1.8.2019. At that time, the petitioner was still minor having attained the age 17 years and 9 months. On attaining the age of majority, the petitioner made a representation to respondents No. 2 and 3 for considering him for appointment on compassionate ground as per Rules of 2019, which was rejected by the impugned order dated 27.5.2022. Aggrieved against the said rejection, the instant writ petition has been preferred.

3. Learned counsel for the petitioner would contend that the petitioner herein would be entitled to compassionate appointment on the ground that his father had died while in service and Rule 4 of the Rules of 2019 envisages that a family member shall be eligible for consideration of compassionate appointment, subject to the conditions that the deceased or missing Government employee should have completed five years of services on regular basis; has not attained the age of fifty-two years or more upto the date of death or missing and not to be suspected to have committed fraud or joined any terrorist organization or gone abroad. It is further submitted that in the present case, the father of the deceased had completed more than five years of regular service and had not attained the age of 52 years; nor was suspected of having committed any fraud or joined any terrorist organization or had gone abroad and, therefore, by virtue of Rule 5, the petitioner would be entitled to compassionate appointment. It is further submitted that on promulgation of the Rules of 2019, an application had been preferred by the petitioner, which ought to have been considered on the basis of the rules of 2019 Rules and, therefore, impugned order is not sustainable.

Learned counsel would also urge that the judgment as rendered in N.C. Santosh Versus State of Karnataka and others (2020) 7 Supreme Court Cases 617 clearly holds that the rules applicable for compassionate appointment, as applicable on the date of the application, have to be taken into consideration and not the rules as applicable at the time of death of a government employee.

4. I have heard learned counsel for the petitioner and find that there is no ground made out for interference by this Court.

5. Admittedly, the father of the petitioner was in service at the time of his death and on his expiry, his widow had moved an appropriate application under the prevalent provisions of the 2006 Rules. Rule 5 of 2006 Rules stipulates for financial assistance to be given to the family member of a Government employee who had died while in service. The said rule did not envisage offering of a government job as has been allowed by the subsequent Rules of 2019. Once a family member has already availed of financial assistance under the 2006 Rules prevalent at the given time, the petitioner cannot agitate his claim under the

Rules of 2019. It would amount to availing dual benefits. Insofar as, the judgment in N.C. Santosh (*supra*) is concerned, the same is not applicable to the facts of the instant case. The argument that since the application for compassionate appointment was made under the 2019 Rules, therefore, compassionate appointment ought to have been offered is without merit, considering the fact that family members of the deceased had already availed the financial assistance under the prevalent rules at the time of the death of the government employee and, therefore, now they cannot be allowed to turn around and say that the Rules of 2019 be also made applicable, as it would tantamount to availing dual benefit, which is not permissible in law.

6. For the reasons afore-stated, the impugned order declining compassionate appointment under the Rules of 2019 warrants no interference by this Court. Consequently, the writ petition is dismissed.