

(2014) 10 P&H CK 0003

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10697 of 2013 (O&M)

Usha Rani and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 07-10-2014

Acts Referred:

Citation : (2015) 177 PLR 153

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : R.K. Malik, Senior Advocate and Mandeep Singh, Advocates for the Appellant; Harish Rathee, Senior Deputy Advocate General, Advocates for the Respondent

Judgement

Rajesh Bindal, J.—The legal heirs of deceased Sultan Singh, who died while in service with Haryana Roadways, have filed the present petition claiming benefits under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short, "the Rules"). Learned counsel for the petitioners submitted that Sultan Singh was appointed as driver on 10.2.2012, in pursuance to the advertisement issued by the Haryana Staff Selection Commission. Before Sultan Singh (since deceased) joined service, he was medically examined on 15.2.2012 and was found fit for entry into Government service. Unfortunately, on 30.9.2012, Sultan Singh died during service. He left behind his widow and three minor children. In terms of the Rules, the petitioners were entitled to the benefits envisaged thereunder, however, the same were not granted despite a legal notice issued.

2. Learned counsel for the petitioners further submitted that even if deceased Sultan Singh had not completed one year of service, still the claim of the legal heirs for the benefits under the Rules, could not be rejected. The issue was gone into by this Court in CWP No. 8183 of 2009 Neeraj Yadav and another v. State of Haryana and others, decided on 12.10.2009, wherein it has been opined that even if the deceased Government employee does not complete one year of

continuous service, his dependents are entitled to grant of family pension. He further submitted that the defence of the respondents that the deceased being a contractual employee was not entitled to the relief, is also not tenable in view of judgment of this Court in CWP No. 5593 of 2011 Kelo Devi Vs. State of Haryana and Others, , wherein while considering the case of a driver, it was opined that the manner in which the appointments were made, even if not termed to be regular, they can be treated as temporary and the family is entitled to benefits under the Rules.

3. Learned counsel for the petitioners further while referring to the Division Bench judgment of this Court in CWP No. 22516 of 2012 Mohinder Singh and others v. State of Haryana and others, decided on 1.4.2013, submitted that this Court had set aside the Haryana Transport Department (Group-C) Haryana Roadways Service (Amendment), Rules, 2004, providing for contractual appointments to the drivers for the first three years, followed by regular pay scale. It was opined that the drivers so appointed shall be entitled to minimum of the pay scale from the date of their initial appointments. The submission is that in view of the aforesaid judgments, the family of the deceased employee could not be denied the benefits under the Rules.

4. On the other hand, learned counsel for the State submitted that different policies framed by the State are meant for the benefit of the employees or the family of the employee, who die in harness. These have their own limitations. There are certain conditions attached in the Rules, which are required to be fulfilled before grant of benefits to the family of the deceased employees. The deceased in the present case had served merely for a period of seven months. He was not even a regular employee. Hence, the family cannot be granted benefits under the Rules. However, he has not pointed out any judgment taking contrary view on the issue or that any appeal has been filed against the aforesaid judgments of this Court.

5. Heard learned counsel for the parties and perused the paper book.

6. The question, as to whether an employee, who has rendered less than one year service is entitled to the benefits under the Rules, has been considered by this Court in Neeraj Yadav's case (supra), where the deceased had joined as Inspector with the police on 7.10.2008 after medical examination and died on 23.3.2009. Despite the service being merely of five months, the family was held entitled to the benefits under the Rules. While dealing with the issue, this Court relied upon earlier judgments of this Court in Smt. Savitri Devi v. The State of Haryana and others, 1996 (2) R.S.J. 854, Sharmila Devi v. Uttar Haryana Bijli Vitran Nigam Limited, 2002 (4) S.C.T. 178 and CWP No. 3515 of 2009 Mahender Kaur v. State of Haryana and others, decided on 5.10.2009. Hence, the petitioners could not be denied benefits under the Rules on the ground that the deceased employee had not served for minimum one year.

7. In Kelo Devi's case (supra), the petitioner therein was declined ex-gratia

assistance under the Rules on the ground that her husband, who was serving as a driver, was a contractual employee. He joined served as driver after due medical examination on 26.6.2008, however, he expired on 5.9.2010. This Court opined that the petitioner therein would be entitled to the benefits available under the Rules as the service rendered by her late husband was treated to be temporary service.

8. In Mohinder Singh's case (supra), the issue was raised by the drivers/ conductors recruited in Haryana Roadways, regarding the salary being paid to them. In terms of the Rules for first three years in service, the drivers were to be paid fixed salary of Rs. 10,000/- per month and only thereafter they were entitled to regular pay scales. This Court opined that payment of consolidated salary was impermissible and the rules to that extent were declared unconstitutional. The petitioners therein were held entitled to minimum of the pay scale from the date of their initial appointments. Meaning thereby, the method adopted by the State to recruit the drivers stating that initially they were on contract basis was deprecated by this Court.

9. Learned counsel for the State has not pointed out that any of the judgments, referred to above, has been challenged by the State in appeal, hence, the same are taken as final.

10. In the case in hand, admittedly late Sultan Singh was recruited as driver by the Haryana Roadways in pursuance to an advertisement issued by the Haryana Staff Selection Commission. Before joining, he was medically examined and found fit for entry into Government service. Life and death is in control of Almighty God. No one knows the date of his/her death. It was unfortunate that Sultan Singh died merely after seven months of joining service but still the Rules have been framed only to give benefits to the family of the deceased employee, which is in harness. Money is not the only thing on which the family survives. However, it is a succor provided so that family can meet its day to day needs. If the principles of law laid down in the aforesaid judgments are applied in the facts and circumstances of the case, in my opinion, the petitioners are entitled to the benefits of the Rules. Let the amount due to the petitioners be calculated and paid within a period of three months from the date of receipt of copy of the order.

The petition stands disposed of.