
(2017) 01 P&H CK 0093
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 1307 of 2015 (O&M)

Vidhya Devi

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 12-01-2017

Acts Referred:

Citation : (2017) 3 SCT 45

Hon'ble Judges : Kuldeep Singh, J.

Bench : Single Bench

Advocate : Sherry K. Singla, Advocate, for the Petitioner; Keshav Gupta, Assistant A.G. Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Kuldeep Singh, J. (Oral)—Head Constable Rohtash, while on official duty died in a motor vehicular accident on 11.8.2005, leaving behind the petitioner being the widow and three minor children. The petitioner accordingly applied for financial assistance as per the "The Haryana Compassionate Assistance to the Dependents of deceased Government Employees Rules 2006" (in short "Rules of 2006"). Vide order dated 18.10.2006 (Annexure-P-2), the said request was allowed and the financial assistance equal to the pay and other allowances that were last drawn by late EHC Rohtash were granted with effect from 1.8.2006. It was further stipulated that the widow of the deceased is not entitled to get pension with effect from 1.8.2006 during the period of drawl of pay and allowance under the new scheme. It further comes out that later on, respondents passed a fresh order dated 8.2.2008 (Annexure-P-4), whereby the compassionate financial assistance amounting to Rs. 2,50,000/- was allowed to the petitioner under "The Haryana Compassionate Assistance to the Dependents of deceased Government Employees Rules, 2003", stating that the family of the deceased had not opted financial assistance under the new rules of 2006. The said order reads as under :-

" In pursuance of the provisions contained in "The Hararyana Compassionate

Assistance to the Dependents of deceased Government Employees Rules 2003", sanction is hereby accorded for payment of ex-gratia compassionate financial assistance amounting to Rs. 2,50,000/- (Rs. Two lacs and fifty thousand only) to Smt. Vidhya Devi W/o Late EHC Rohtash Singh No. 21/NNL, as the family of the deceased has not opted financial assistance under new rules 2006.

The expenditure involved will be debited to Head "2055- Police-109-District-Police" for the current financial year 2007- 08."

The petitioner has impugned this order dated 8.2.2008 (Annexure-P-4) and consequential recovery made from her regarding the financial assistance already released to her in pursuance to the order dated 18.10.2006 (Annexure-P-2).

2. The reply of the State reveals that the order dated 8.2.2008 (Annexure-P-4) is stated to have been passed on the basis of application dated 18.1.2008 (Annexure-R-2). The perusal of the original application shows that the petitioner is stated to have requested that she should be released ex-gratia grant of Rs. 2,50,000/-, stating that she is already getting financial assistance under the rules of 2006.

3. I have heard the learned counsels for the parties and have also carefully gone through the file.

4. The perusal of the order dated 18.10.2006 (Annexure-P-2) shows that the matter was processed and vide order dated 18.10.2006 (Annexure-P-2), the petitioner was granted financial assistance under the "The Haryana Financial Assistance to Dependents of deceased Government Employees Rules, 2006" and she was accordingly allowed financial assistance equal to the pay and other allowances that were last drawn by her late husband EHC Rohtash. However, she was not entitled to withdraw the pension for the period she was getting the financial assistance. The order dated 8.2.2008 (Annexure-P-4) does not make any mention that now the Government has received an application from the petitioner and that in pursuance to the said application i.e. dated 18.1.2008, the order dated 18.10.2006 (Annexure-P-2) is being reviewed. The order dated 8.2.2008 (Annexure-P-4) simply states that the deceased has not opted financial assistance under the new rules of 2006.

5. The learned counsel for the petitioner has though admitted the signatures of the petitioner on the said application, but it is stated that the application is in the handwriting of somebody else and this application was never moved by the petitioner.

6. After considering the facts and circumstances, I am of the view that once the financial assistance was released, vide order dated 18.10.2006 (Annexure-P-2), the matter stands closed. If the State wanted to review the order dated 18.10.2006 (Annexure-P-2), it has to state the reasons why it is being reviewed. No reasons are mentioned in the order dated 8.2.2008 (Annexure-P-4), firstly, that the order dated 18.10.2006 (Annexure-P-2) is being reviewed and secondly,

on which ground it is being reviewed. It simply states as if it is a fresh order assuming that the order dated 18.10.2006 (Annexure-P-2) was never passed. The order dated 18.10.2096 (Annexure-P-2) is more beneficial to the petitioner and as a normal human being, the petitioner, who is getting the last drawn pay of the deceased, will never take paltry payment of Rs. 2,50,000/- as financial assistance. It being so, the present writ petition is allowed. The order dated 8.2.2008 (Annexure-P-4) alongwith consequential orders stand quashed. The respondents are directed to release the financial assistance to the petitioner as per the order dated 18.10.2006 (Annexure-P-2). It is informed by the learned counsel for the petitioner to this Court that an amount of Rs. 1,78,423/- has already been recovered from the account of the petitioner. The same is ordered to be refunded to the petitioner within one month from the date of receipt of certified copy of this order, failing which the State shall pay interest at the rate of 9% per annum from the date the amount is deducted till its payment.