

Before A. K. Sikri, Chief Justice & Tejinder Singh Dhindsa, J.

STATE OF HARYANA AND OTHERS—Appellants

versus

SMT. JYOTSANA—Respondents

LPA No. 1757 of 2012

March 13, 2013

Haryana Compassionate Assistance to the Dependents of Deceased Govt. Employees Rules, 2003 - Rls. 2 & 3 - Husband of petitioner dies in service - was in service for a period of 1 year 4 months and 20 days- Claim for ex-gratia compensation rejected - Writ petition challenging order was allowed and Petitioner was held to be entitled to an amount of Rs. 2.5 lacs with interest under the Rules - challenge thereto- Held -Rule 2 clearly states that the object of the Rules is to assist family of a deceased employee in tiding over an emergency situation on account of loss of the bread earner by giving either ex-gratia appointment on compassionate ground or ex-gratia financial assistance- such assistance has to be in relation to a deceased govt. employee who has served the govt. for at least three years -appeal allowed.

Held, that a plain reading of the statutory provisions would make it apparent that be it the grant of ex-gratia appointment on compassionate grounds or ex-gratia compassionate financial assistance, both would relate to a "deceased employee" who dies in harness. The term "deceased" as finding a mention under Rule 2 sub clause (ii) is clearly in relation to a deceased govt. employee as defined under Rule 3 sub clause (d). The opening lines of Rule 2 would clarify the matter further. Rule 2 clearly states that the object of the 2003 Rules is to assist the family of a deceased employee in tiding over an emergency situation on account of loss of the bread earner by giving either of the two options i.e. ex-gratia appointment on compassionate ground or ex-gratia financial assistance. The language of the statutory provision is plain and unambiguous. The option of claiming ex-gratia appointment on compassionate grounds or ex-gratia compassionate financial assistance by a member of the indigent family of a deceased

employee has to be in relation to a deceased govt. employce as covered under the definition under Rule 3 sub clause (d) i.e. having served the govt. for at least three years.

(Para 6)

Further held, that it would not be open for the courts under the garb of "compassion" and "equity" to expand the application of a provision in a beneficial piece of legislation by resort to judicial interpretation to a level unintended by the Legislature and to thereby extend the benefit provided under a statutory provision even to those, who are not so covered.

(Para 7)

Appeal Allowed

R.K.S. Brar, Addl. A.G, Haryana.

R.S. Sangwan, Advocate, *for the respondent*.

TEJINDER SINGH DHINDSA, J.

(1) Husband of the respondent was appointed as a Cook with the Haryana Police on 1.5.2002. He unfortunately died on 21.9.2003. The claim of the respondent for grant of ex-gratia compassionate financial assistance was rejected vide order dated 20.3.2006 passed by the Commandant, India Reserve Battalion, Bhondsi, Gurgaon. Respondent filed CWP No. 7032 of 2006 impugning the order dated 20.3.2006. In terms of judgement dated 20.7.2012 passed by the learned Single Judge the order rejecting the claim of the appellant for grant of ex-gratia compassionate financial assistance has been set aside and she has been held entitled to an amount of Rs.2.5 lacs under the Haryana Compassionate Assistance to the Dependents of Deceased Govt. Employees Rules, 2003 (hereinafter to be referred as 2003 Rules) along with 7% interest from the date of raising such claim till the date of actual disbursement.

(2) The instant appeal at the hands of State of Haryana is directed against the judgement dated 20.7.2012 passed by the learned Single Judge while allowing CWP No. 7032 of 2006.

(3) Learned counsel for the parties have been heard at length.

(4) The issue raised in the instant appeal would hinge upon the interpretation of relevant Rules 2 and 3 of the 2003 Rules and the same are extracted hereunder:-

"2. The object of the rules is to assist the family of a deceased employee in tiding over the emergency situation resulting from the loss of the bread earner by giving either of the following options:-

(i) Ex-gratia appointment on compassionate grounds to a member of the family who was "completely dependent" on the deceased employee and is in extreme financial distress due to the loss of the deceased namely the Govt. Employee who dies in harness "

(ii) Ex-gratia compassionate financial assistance to the family of the deceased over and above all other benefits like ex-gratia grant due to his family to be paid @ Rs.2.5 lacs in case where the family of the deceased does not opt for exgratia employment.

3. In these rules unless the context otherwise requires-

(a) "Appointing authority means the Head of Department where the deceased Government employee was working.

(b) "Compassionate financial assistance" means the financial assistance to the tune of Rs.2.5 lacs provided as exgratia assistance over and above all other benefits to the completely dependent member of the indigent family of the deceased.

(c) "Competent authority" means the head of the concerned department where the deceased/missing employee was serving.

(d) "Deceased Government Employee" means a government employee.

(i) appointed on the regular basis and not working on daily wages, casual apprentice, work charged, ad hoc, contractual or employment basis.

(ii) *Who has served the Government for at least three years.*

(iii) *Who should not have crossed the age of 55 years.*

(e) xxx xxx xxx xxx

(n) xxx xxx xxx xxx. ”

(5) The learned Single Judge while reading Rules 2 and 3 reproduced herein above has drawn a distinction as regards grant of benefit of ex-gratia appointment on compassionate grounds as opposed to grant of ex-gratia compassionate financial assistance. It has been held that the definition of “deceased govt. employee” under clause (d) of Rule 3 which in turn mandates serving the Govt. for at least three years, would come into play only to consider the claim of ex-gratia appointment on compassionate basis. In so far as grant of ex-gratia compassionate financial assistance is concerned, it has been held that under Rule 2 sub clause (ii) and Rule 3 sub clause (b) the word “deceased” has been used as opposed to “deceased employee” under Rule 2 sub clause (ii) and as such the requirement of having served the Govt. for at least three years under the definition of “deceased govt. employee” under Rule 3 sub clause (d) would have no application. It is in terms of drawing such distinction between the word “deceased” as mentioned in Rule 2 sub clause (ii) and the expression “deceased employee” under Rule 2 sub clause (i) that the respondent has been held entitled to grant of ex-gratia compassionate financial assistance.

(6) We have examined Rules 2 and 3 of the 2003 Rules minutely. Rule 2 sub clause (i) envisages the grant of ex-gratia appointment on compassionate basis to a member of the deceased employee, who is in extreme financial distress on account of the death of such Govt. employee in harness. Rule 2 sub clause (ii) provides for the grant of ex-gratia compassionate financial assistance to the family of the deceased over and above all other benefits like ex-gratia grant etc. in case the family of the deceased does not opt for the benefit of ex-gratia employment. Rule 3 sub clause (b) defines compassionate financial assistance to mean assistance to the tune of Rs.2.5 lacs over and above the other benefits that may be admissible to the dependent member of the indigent family of the deceased.

Rule 3 sub clause (d) defines the deceased Govt. employee to mean a Govt. employee appointed on regular basis and not working on daily wages, casual apprentice, work charged, ad hoc, contractual basis and who has served the Govt. for at least three years. A plain reading of the statutory provisions would make it apparent that be it the grant of ex-gratia appointment on compassionate grounds or ex-gratia compassionate financial assistance, both would relate to a "deceased employee" who dies in harness. Such deceased employee in turn stands defined under Rule 3 sub clause (d) under the expression "deceased govt. employee". Even though, under Rule 2 sub clause (i) regulating the grant of ex-gratia appointment on compassionate basis the term "deceased employee" has been used and under Rule 2 sub clause (ii) governing the grant of ex-gratia compassionate financial assistance the term deceased has been employed but that would not make the basis of drawing out any distinction. The term "deceased" as finding a mention under Rule 2 sub clause (ii) is clearly in relation to a deceased govt. employee as defined under Rule 3 sub clause (d). The opening lines of Rule 2 would clarify the matter further. Rule 2 clearly states that the object of the 2003 Rules is to assist the family of a deceased employee in tiding over an emergency situation on account of loss of the bread earner by giving either of the two options i.e. ex-gratia appointment on compassionate ground or ex-gratia financial assistance. The language of the statutory provision is plain and unambiguous. The option of claiming ex-gratia appointment on compassionate grounds or ex-gratia compassionate financial assistance by a member of the indigent family of a deceased employee has to be in relation to a deceased govt. employee as covered under the definition under Rule 3 sub clause (d) i.e. having served the govt. for at least three years. We are unable to persuade ourselves to read any distinction between the term deceased employee under Rule 2 sub clause (i) and the word deceased under Rule 2 sub clause (ii) in so far as considering the claim of an applicant for the grant of ex-gratia compassionate financial assistance is concerned. Such a distinction as drawn by the learned Single Judge would be alien to the rules.

(7) We are aware that the 2003 Rules are in the nature of a beneficial piece of legislation and would call for a liberal interpretation. It is well settled that it would be open for the courts to adopt different

yardsticks and measures for interpreting socio-economic statutes/provisions as compared to penal statutes and taxing statutes. But there would be a caveat. It would not be open for the courts under the garb of "compassion" and "equity" to expand the application of a provision in a beneficial piece of legislation by resort to judicial interpretation to a level unintended by the Legislature and to thereby extend the benefit provided under a statutory provision even to those, who are not so covered. In this regard we would draw support from the following observations made by the Hon'ble Supreme Court of India in case of *Regional Director, E.S.I Corpn. versus Ramanuja Match Industries (1)* :

"10... We do not doubt that beneficial legislations should have liberal construction with a view to implementing the legislative intent but where such beneficial legislation has a scheme of its own there is no warrant for the Court to travel beyond the scheme and extend the scope of the statute on the pretext of extending the statutory benefit to those who are not covered by the scheme."

(8) Admittedly, the late husband of the respondent had been appointed as a Cook on 1.5.2002 and he expired on 21.9.2003. He had as such served in the Police Department for a duration of 1 year 4 months and 20 days. Husband of the respondent, accordingly, would not be covered under the definition of "deceased government employee" as defined under Rule 3 sub clause (d) of the 2003 Rules which clearly mandate such deceased govt. employee to have served the Govt. for at least three years so as to make a dependent member of the deceased to be eligible for the grant of ex-gratia compassionate financial assistance.

(9) For the reasons recorded above, we allow the instant appeal and set aside the judgement dated 20.7.2012 passed by the learned Single Judge in CWP No. 7032 of 2006. Consequently, the writ petition filed by the respondent shall stand dismissed.

Appeal allowed.

M. Jain