



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

205

**CWP-23203-2011 (O&M).
Date of Decision: 17.03.2026.**

Santosh Devi

....Petitioner.

VERSUS

Uttar Haryana Bijli Vitran Nigam and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manoj Sharma, Advocate for the petitioner.

Mr. P.S. Poonia, Senior Advocate with
Mr. Pulkit Dhanda, Advocate,
Mr. Yudhveer Hooda, Advocate and
Mr. Dharampal Saini, Advocate for the respondents.

HARPREET SINGH BRAR, J.

The present petition has been preferred under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of order dated 18.10.2011 (Annexure P-12), vide which the claim of the petitioner for appointment of her son under ex-gratia has been denied and she has been ordered to submit the option for lump-sum cash assistance for Rs.2.5 Lakh only. The petitioner is further seeking direction to the respondents to appoint her son as the dependents of those, whose husband/ father expired after the petitioner's husband, have been given appointment by superseding the seniority list.

CONTENTIONS

2. Learned counsel for the petitioner, *inter alia*, contends that Braham Prakash, the late husband of the petitioner, was working as an Assistant Lineman in the respondent-Nigam and he expired on 10.05.2005 while on duty. The petitioner submitted an application for appointment of her son Sandeep Kumar, who was 10+2 pass. The Executive Engineer, City Operation Division, Uttar Haryana Bijli Vitran Nigam, Rohtak, recommended the case of the petitioner's son for appointment as Clerk, as is found discernible from letter dated 18.11.2005 (Annexure P-3).

When the husband of the petitioner expired on 10.05.2005, the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules', 2003 (hereinafter to be referred as 'Rules of 2003'), were applicable. Some amendments were also made in Rules of 2003, vide Notification dated 10.02.2004, as is discernible from Annexures P-4 and P-5. In terms of the Rules of 2003, applicable at the time of death of the late husband of the petitioner, the compassionate appointment was to be made one step below to the post on which the deceased government employee was working and the name of the son of the petitioner for appointment was to remain in the list till 09.05.2008. The Managing Director of the respondent-Nigam wrote to the Executive Engineer/City, Rohtak, to obtain the original certificates of the qualification of the son of the petitioner along with affidavit from the petitioner to the effect that she is unmarried and will not remarry and an affidavit from Sandeep Kumar that he will look after the family of the deceased along with the status/income of other dependents. A copy of the said letter is annexed with the petition as Annexure P-7. In compliance of the aforesaid letter, the petitioner submitted the affidavit and completed all the

formalities, submitting the requisite documents well within time without any delay on her part. The petitioner was expecting that her son would be given appointment under Rules of 2003, but the Managing Director of respondent-Nigam, on 23.11.2006, ordered the concerned Executive Engineer to obtain option from the petitioner for financial assistance, as is discernible from letter dated 23.11.2006 (Annexure P-8).

Thereafter, the State Government again notified The Haryana Compassionate Assistance to the Departments of Deceased Government Employees Rules, 2006 (hereinafter to be referred as 'Rules of 2006'), Annexure P-9, under which the family of the deceased employee has been provided monthly financial assistance instead of ex-gratia compassionate appointment. The petitioner requested the respondents to give appointment to her son under Rules of 2003 and also submitted that at the time of death of her husband, Rules of 2003, were applicable and the name of the dependent of the deceased employee was to be retained in the list for three years, which was further extended to four years under Rules of 2005. As per revised list for compassionate appointment prepared by respondent-Nigam, under Class-III category as on 30.06.2005, the petitioner's claim was placed at Sr. No.85, but the appointment was not given to her son for the reason best known to the respondents, whereas the identically circumstanced dependents, whose father or husband, expired after the death of the husband of the petitioner, were given compassionate appointment, as is discernible from the list at Annexure P-10. On account of delay and disregard for the claim made by the petitioner, the petitioner was compelled to serve a legal notice dated 12.08.2011 (Annexure P-11). However, on vide order dated 18.10.2011 (Annexure P-12), the claim of the petitioner was rejected on the ground that Rules of 2006, does

not allow ex-gratia appointment, whereas the case of the petitioner's son is required to be considered under Rules of 2003, which was applicable at the time of the death of her husband. Even in the month of July, 2010, the respondents issued appointment to one dependent of Late Shri Mam Chand, Assistant Lineman, whose wife Prakasho Devi filed CWP-19113-2008 and this Court, vide order dated 18.08.2010 (Annexure P-13), directed the respondents to consider the claim of the son of the petitioner therein for compassionate appointment in accordance with the instructions applicable at the time of the death of the husband of the petitioner therein. In purported compliance with the order dated 18.08.2010 passed by this Court in CWP-19113-2008, Shri Ashok Kumar, deceased employee's son was offered appointment on 29.06.2011, as is discernible from Annexure P-14.

3. *Per contra*, learned counsel for the respondent-Nigam submits that all ex-gratia policies were replaced by the Rules of 2006 (Annexure P-9), which does not provide for any compassionate appointment and further these rules were made applicable retrospectively to all pending cases. Further, the petitioner has not accepted the financial assistance in terms of offer dated 23.11.2006 (Annexure P-8), which was made in view of the Rules of 2006.

OBSERVATIONS AND ANALYSIS

4. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the husband of the petitioner expired on 10.05.2005 and there is no denial to the fact that at the time of the death of late husband of the petitioner, Rules of 2003, were applicable in which there was a specific provision for granting ex-gratia appointment on compassionate ground to a member of the family of deceased government employee, who was completely dependent upon the deceased government employee.

5. Admittedly, compassionate appointment process for the petitioner's son was initiated under the Rules of 2003. Under the same rules, the petitioner was asked to submit relevant documents vide letter dated 25.01.2006 (Annexure P-7). The petitioner duly submitted all required documents along with affidavits from herself and her son well within the stipulated time, incurring no delay on her part.

6. The principle that compassionate appointment claims must be governed by the policy prevalent at the employee's death stands settled by the Full Bench of this Court in ***Krishna Kumari v. State of Haryana, 2012(2) SCT 736***, and affirmed by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Ashish Awasthi, 2021 INSC 759***.

7. Further, the Rules of 2006 (Annexure P-9) cannot apply retrospectively, as vested rights accrued under the 2003 scheme cannot be divested even by legislative amendments. This settled principle finds crystallization in the Full Bench judgment of this Court in ***Kaka v. Hassan Bano, 1998(1) RCR (Criminal) 484***, wherein the Court observed as under:-

*“(20) It is a settled principle of law that the right of the parties which are determined by the orders/judgments of the Courts of competent jurisdiction and have become final are the vested rights in contrast to existing rights. **Vested rights of a party cannot be taken away by implication.** The Legislature by a clear language has to spell out such a consequence on the statute itself. Even the Legislature by enactment of law cannot render a judgment ineffective or redundant. The pronouncement of the Hon'ble Supreme Court of India in the case of Shah Bano (supra) might have occasioned the passing of the above legislation, but the judgment of the Supreme Court stands as a judgment of the Court even as on date. Under Article 141 read with Article 142 of the Constitution of India, the law declared by the Supreme*

Court is to bind all Courts within the Indian territory and is the law of the land.”

8. It is further uncontroverted that the respondents indeed extended the benefit of compassionate appointment to the dependent of Late Shri Mam Chand in the year 2010, by applying the policy in force at the time of the employee's death therein. Denial of the same benefit to the petitioner, while granting it to a similarly situated individual, is clearly violative of Article 14 of the Constitution of India.

9. It is not the case of the respondents that the petitioner has received any financial benefits under the Rules of 2006. The petitioner's right to be considered for compassionate appointment of her son, in accordance with the policy prevailing at the time of the employee's death, stood crystallized on the very date of demise of the deceased employee.

10. No other argument was raised.

11. In light of the above, the present petition is allowed. The respondents are directed to consider the claim of the petitioner for appointment of her son on compassionate ground strictly in terms of Rules of 2003, within a period of three months from the date of receipt of a certified copy of this order.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

17.03.2026

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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No