



LPA-2331-2024 (O&M) & LPA-2255-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. LPA-2331-2024 (O&M)

State of Haryana and others

...Appellants

Vs.

Harish Kumar

...Respondent

2. LPA-2255-2024 (O&M)

State of Haryana and others

...Appellants

Vs.

Satish Kumar

...Respondent

Reserved on: 16.10.2025

Pronounced on: 14.01.2026

Judgment uploaded on: 16.01.2026

Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced: Full Judgment

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. Pankaj Middha, Addl. A.G. Haryana
for the appellants.

Mr. Nischal Chetanya Manchanda, Advocate
for the respondents.

ROHIT KAPOOR, J.

1. The aforementioned Letters Patent Appeals have been filed against the common judgment and order dated 03.10.2023, passed in CWP-17212-2018 and CWP-5716-2012, whereby the writ



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petitions filed by the respondent-writ petitioners, have been disposed of in terms of the decision in CWP-5593-2011, titled as '*Kelo Devi vs. State of Haryana and others*', decided on 07.02.2013. The orders dated 15.05.2024, passed in RA-CW-85-2024 and RA-CW-105-2024, whereby the review applications filed by the Appellants have been dismissed, are also assailed.

2. As the issue required to be adjudicated in both the appeals is the same, they are being decided together, by way of this common judgment and order.

FACTUAL MATRIX

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3. The wife of the respondent-writ petitioner, namely, Smt. Rekha Rani, was appointed as Social Studies Mistress for an initial term of 89 days on contractual basis on 03.10.1997 in Government Girls High School, Imlota, District Bhiwani (now Charkhi Dadri). She continued working on the said post till 05.07.1999, on which date she submitted an application requesting for leave on the ground of her illness. It transpires that she remained absent for the period from 05.07.1999 to 13.08.2001 and submitted an application dated 14.08.2001 for grant of leave for the said period without pay.

4. The office of the Director Secondary Education Haryana vide its order dated 30.09.2004, after noticing that she did not attend the school nor made any request for extension of leave, and the long absence without intimation amounts to abandonment of



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the post, which was on contract basis, allowed her to join inter-alia on the condition that she will not get the benefit of her previous services and that her services would stand terminated immediately on availability of regularly selected candidates.

5. As per the respondent-writ petitioner, his wife submitted a representation dated 11.09.2010 (Annexure P-9) seeking regularization of her service, which was followed with a reminder dated 11.01.2011 (Annexure P-10). It is alleged that other teachers, who had joined alongwith her, have been regularized, however, her claim has not been accorded any consideration in a discriminatory manner.

6. The wife of the respondent-writ petitioner died in a vehicular accident on 23.02.2011. After her demise, the respondent submitted representations dated 02.07.2011 and 23.08.2011, seeking her regularization as well as grant of *ex gratia* benefits. Aggrieved by the inaction of the authorities in deciding the representations, he filed CWP-24111-2011. During the pendency of the said petition, the office of the Director Elementary Education Haryana (respondent No.2) passed a speaking order dated 05.05.2017, whereby the claim of the respondent-writ petitioner was rejected on the ground that his wife had been engaged purely on contractual basis and was not covered under the Regularization Policies of 2003 and 2011, as she did not fulfill the terms and conditions stipulated therein. The said speaking order dated 05.05.2015 was impugned by the respondent-writ petitioner in CWP-17212-2018, which was



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disposed of along with CWP-5716-2018, vide order dated 03.10.2023, after noticing that the counsel for the parties are in agreement that the issue raised in the petitions, is covered by the decision in Kelo Devi's case (supra).

7. The appellants filed RA-CW-85-2024, which was dismissed vide order dated 15.05.2024 with the following observations:-

"In pursuance to the order dated 06.03.2024 an affidavit has been filed, wherein, the appointment order of the husband of Kelo Devi, who was the petitioner in CWP No. 5593 of 2011 titled as Kelo Devi Vs. State of Haryana and others, decided on 07.02.2013, who was allowed the benefit of service rendered by her late husband, which has been brought on record. The benefit of the service rendered by the husband of Kelo Devi on contractual basis was treated as a valid service for the grant of various benefits, which benefits are also being claimed by the petitioner in the present petition.

On 03.10.2023, the petition of the petitioner was allowed in terms of the judgment in Kelo Devi's case (supra), and now a review petition has been filed. In the review petition, it has been mentioned that the claim of the petitioner is not akin to Kelo Devi as, the husband of Kelo Devi was appointed in pursuance to the regular selection process. This Court, vide order dated 06.03.2024 directed to place on record the appointment order given to



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the husband of Kelo Devi by the Subordinate Service Selection Board. In pursuance to the said order, the affidavit has been filed by Namita, Joint Director, Directorate of Elementary Education, Haryana, Panchkula, Along with the said affidavit, the appointment order of the husband of Kelo Devi has been appended as Annexure R-1. The same has not been issued by the Subordinate Selection Board but only by the General Manager, Haryana Roadways, Jind, wherein, the husband of Kelo Devi was appointed on contractual basis and that too on a consolidated amount of ₹3,000/- per month.

Learned counsel for the review applicant concedes the factum that the appointment of the petitioner was not made in pursuance to the recommendation of the Subordinate Service Selection Board and the appointment has been made in case of the husband of Kelo Devi only by the General Manager, Haryana Roadways on contractual basis on a consolidated salary. That being the factual position, there is no difference between the appointment of the husband of the petitioner as well as husband of Kelo Devi.

Learned counsel for the review applicant submits that in the judgment, the appointment of the husband of Kelo Devi has been described as having been made in a regular manner.

It may be seen that once, the actual appointment of the husband of Kelo Devi was made on contractual basis and that too on a consolidated salary and not by the competent



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authority, the grounds which are being taken in review application, are not at all admissible. The status of the husband of Kelo Devi as compared to the status of husband of the petitioner in the present petition is identical and that is why the State had conceded the claim when the case came up for consideration before this Court on 03.10.2023.

It has already been mentioned in the earlier cases that after conceding the facts, the State is filing review petitions thereafter. Even in the present case, the review petition is made upon the incorrect facts that husband of Kelo Devi was appointed on the basis of regular selection, which fact has been conceded to be incorrect in the affidavit.

No ground is made out for any interference by this Court in the present review petition."

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8. The wife of the respondent-writ petitioner in LPA-2255-2024, was initially engaged as a Guest Teacher on 02.11.2006, and the terms and conditions of her appointment were changed on 01.04.2009 and she was employed on contractual basis in Government Girls High School, Imlota. Unfortunately, she died in a road accident on 23.02.2011. It transpires that the respondent-writ petitioner thereafter submitted representations, for grant of ex-gratia benefit, however his claim was rejected on the ground that as per policy, compassionate assistance is granted only to the dependents



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of government employees in regular service. It is in this backdrop that the respondent-writ petitioner challenged the order dated 17.11.2011 rejecting his claim, by filing CWP-5716-2012, which was disposed of along with CWP-1712-2018 in terms of the decision in **Kelo Devi's** case (supra). The appellants filed RA-CW-105-2024, which was dismissed vide order dated 15.05.2024 with the observations as reproduced hereinabove.

CONTENTIONS OF THE PARTIES

9. Learned Additional Advocate General appearing on behalf of the appellants has assailed the correctness of the impugned judgement and orders passed by the learned Single Judge on the ground that the same suffer from the vice of non-application of mind, since the learned Single Judge has failed to examine the facts involved and the applicable statutory provisions, in the correct perspective. It is contended that the decision in *Kelo Devi's* case was based upon its own facts, which were distinct from the facts involved in the instant cases. It is submitted that in the case of *Kelo Devi*, keeping in view of the manner of appointment, the governing service rules and other peculiar factors, it was held that appointment of her husband would have to be construed to have been effected on a regular basis, even though against a temporary post.

10. It is urged that even otherwise the ex-gratia benefits cannot be granted de hors the applicable statutory rules, i.e. *'The Haryana Compassionate Assistance to the Dependents of Deceased*



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Government Employees Rules, 2006' (in short '*2006 Rules*'), wherein as per rule 2 thereof, the object of the rules has been clearly specified and financial assistance is to be provided to family of deceased/missing government employee, who was in regular service.

11. It is further contended that the benefit of the assistance under the 2006 Rules, would not be available to the respondent-writ petitioners, since the same are for tiding over the emergent situation resulting from loss of the bread earner of the family, when he/she is in regular service. It is argued that neither any material has been brought on record nor any averment was made in the respective writ petitions, that the deceased employees were the bread earners of their families, and their death had left the dependent family members under financial duress. It is further submitted that as per rule 3 of the 2006 Rules, the eligibility for grant of benefit under the Compassionate Assistance Rules 2006, is ascertained as per the Family Pension Scheme, 1964 (in short '*Pension Scheme*') and according to the import of para's 3 and 4 thereof, the word 'temporary' mentioned therein means a regular employee, who is yet to complete the period of probation or on a temporary post, and not a contractual employee.

12. Reliance is placed upon a decision of Division Bench of this Court in the case of "*Dharmender Vs. State of Haryana and others*", 2005 SCC Online P&H 555, wherein the vires of Rule 3 (d) (i) (ii) of '*The Haryana Compassionate Assistance to the*



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Dependents of Deceased Government Employees Rules, 2003' (in short '*2003 Rules*') was upheld and it was *inter alia* held that the classification under the 2003 Rules, making a distinction between regular employees and other employees, is valid. It is therefore submitted that the impugned orders passed by the learned Single Judge be set aside, since the same are based upon a misinterpretation of the applicable statutory rules.

13. *Per contra*, learned counsel appearing on behalf of the respondent while controverting the submissions made on behalf of the appellants, has argued that the case of the respondent-writ petitioners, was squarely covered by the decision in *Kelo Devi's* case (supra) and said position was even conceded before the learned Single Judge by the appellants, when the writ petitions were disposed of. It is contended that in the appellants have acted in a discriminatory manner since they selectively granted benefit of regularization policy to similarly situated employees, however the the wife of the respondent-writ petitioner in LPA 2331-2024, was wrongly denied the benefit. Example of one Sh. Hemant Kumar, Lecturer Chemistry, was cited, who was granted the benefit of regularization on the completion of 03 years service as on 30.09.2003, in the scale of 6500-10500 plus usual allowances. Learned counsel has also drawn our attention to Rule 3 of the 2006 Rules, to contend that the eligibility to receive financial assistance, is to be determined as per the provisions of the Pension Scheme and in terms of Note 1 of Paragraph 4 of the said Scheme, the term



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'service' includes 'permanent/temporary service'. It has been urged that the respondent-writ petitioners fulfilled the eligibility criteria for grant of *ex-gratia* assistance, since their respective spouses had completed more than one year's continuous service. Lastly, it is urged that while examining the review petition filed by the appellants, the learned Single Judge specifically took note of the appointment letter of the husband of Smt. Kelo Devi, and rightly came to the conclusion, that he was also appointed on contractual basis. It is thus argued that the claim of the respondent-petitioners was also required to be allowed on the ground of parity and resultantly the present appeals be dismissed, being bereft of any merit.

ANAYLYSIS AND CONCLUSION

14. We have heard learned counsel for the parties and have perused the material available on record, with their able assistance.

15. The solitary question that falls for our consideration is: Whether the respondents-writ petitioners, are entitled for grant of benefits under the Compassionate Assistance Rules 2006 ?

16. At this stage, it is apposite to notice the relevant statutory provisions and policies, which are applicable in the present matter. The State of Haryana framed the *Haryana Compassionate Assistance Rules 2003* (in short '*2003 Rules*') in exercise of powers under Article 309 of the Constitution of India, providing for appointment on compassionate ground to a member of the family who was 'completely dependent' on the deceased employee and is



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in extreme financial distress due to the loss of the deceased, or for grant of lump sum *ex gratia* compassionate financial assistance to the family of the deceased for an amount of Rs. 2.5 lacs. The said Rules were repealed and substituted by the *Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005* (in short, '*2005 Rules*'). Apart from other changes, the amount of *ex gratia* financial assistance was increased to Rs. 5 lacs under the said Rules. However, the definition of 'Deceased Government Employee', remained the same under both set of rules. Rule 3(d) of the 2005 Rules, reads as under:

"3(d) "Deceased Government Employee means a Government Employee –

- (i) Appointed on regular basis, and not on working on daily wages, casual, apprentice, work charged, adhoc, contractual or re-employment basis; and*
- (ii) Who has served the Government at least for three years."*

17. The 2005 Rules were replaced with the Compassionate Assistance Rules, 2006. Rule 2 thereof, was amended vide notification dated 24.11.2006 to include employees of Group A, B, C & D category, within its ambit. The relevant provisions of Rules 2, 3, 4 & 5, are extracted as under:

"1. xxx... xxx... xxx...

2. The object of the rules is to assist the family of a deceased/missing Government employee of Group A, B, C and D category, in tiding over the emergent



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situation, resulting from the loss of the bread-earner while in regular service by giving financial assistance.

3. xxx... xxx... xxx...

4. *An eligible family member of the deceased/missing Government employee shall make an application in Form A for compassionate financial assistance.*

5. xxx... xxx... xxx...

6. *All pending cases of ex-gratia assistance shall be covered under the new rules. The calculation of the period and payment shall be made to such cases from the date of notification of these rules. However, the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006.”*

18. Since the eligibility to receive financial assistance under the 2006 Rules was to be ascertained as per the Pension Scheme of 1964, the relevant paragraphs of the said scheme, are reproduced hereunder:

"3. This scheme comes into force with effect from 1st July, 1964 and is applicable to all regular employees on pensionable establishment- temporary or permanent who were in service on the 1st July, 1964, or are recruited thereafter.

4. This scheme is administered as below:-

(i) The family pension is admissible in case of death while in service or after retirement on or



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after the 1st July, 1964, if at the time of death, the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. The Family Pension will not be admissible in case of death after retirement if the retired employee at the time of death was in receipt of gratuity only. In case of death while in service a Government employee should have completed a minimum period of one year of continuous service without break.

Note 1: The term one year continuous service used in para 4(i) above is inclusive of permanent/temporary service in a pensionable establishment but does not include periods of extraordinary leaves, boy service and suspension period unless that is regularized by the competent authority or before completion of one year continuous service provided the deceased Government employee concerned immediately prior to his recruitment to the service or post was examined by the appropriate Medical Authority and declared fit by that authority for Government service.

Note 2: In the case of persons who were in service in composite State of Punjab prior to 1st November, 1966 and came over to Haryana State on or after 1st November, 1966 or those who have been recruited by the Haryana Government on or after 1st November, 1966, or who are transferred to the Haryana State from the Central Government or other State Government and to those cases it has been agreed to count their previous service for



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pension, the family pension scheme would be applicable in the event of their death/retirement without putting in one year continuous service under the State Government; if their total service at the time of death (inclusive of service rendered under the previous Government) exceeds one year.

(ii) 'Family' for purposes of this Scheme includes the following relatives of the officer.-

- (a) wife, in the case of a male officer;*
- (b) husband, in the case of a female officer,*
- (c) minor sons, and*
- (d) unmarried minor daughters.*

Note 1- (c) and (d) include children adopted legally before retirement.

Note 2- Marriage after retirement is not recognized for purposes of this scheme.

Note 3- A judicially separated wife/husband does not lose her/his legal status of wife/husband of the Government employee and is thus eligible for the benefit of the Family Pension Scheme, 1964-

(iii) The pension is admissible:-

- (a) in the case of widow/widower upto the date of death or remarriage whichever is earlier.*
- (b) in the case of minor son until he attains the age of 21 years (w.e.f. 10.5.88, 25 years)*
- (c) in the case of unmarried daughter until she attains the age of 24 years or marriage whichever is earlier (25 years vide letter No.1/1(4) 80-2FRII dated 10.5.88)*

Note-(i) Where an officer is survived by more than one widow, the pension will be paid to them



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in equal shares. On the death of a widow, her share of the pension will become payable to her eligible minor child. If at the time of her death, a widow leaves no eligible minor child the payment of her share of the pension will cease.

(ii) Where an officer is survived by a widow but has left behind an eligible minor child from another wife, the eligible minor child will be paid the share of pension which the mother would have received, if, she had been alive at the time of the death of the officer.

(iv) "Except as provided in the Note below sub-para (iii) of this para, pension awarded under this scheme will not be payable to more than one member of an officer's family at the same time. It will first be admissible to the widow/widower and thereafter to the eligible minor children."

(v) In the event of remarriage or death of the widow/widower the pension will be granted to the minor children through their natural guardian, if any, otherwise through their defacto guardian on production of indemnity bond, etc. on the analogy of the orders contained in F.D. circular letter No.6837-(5) FRI- 61/8358, dated the 29th July, 1961. In disputed cases, however, payments will be made through a legal guardian (i.e. guardian appointed by a court of law).

(vi) The adhoc increase granted under the Punjab Government circular letter No.8206-FRI-64/7668, dated 13th August, 1964, will not be admissible on the family pension granted under this scheme.

XXX...

XXX...

XXX...



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11. *This Scheme will not be applicable to:-*

- (a) *Persons who retired before the 1st July, 1964 but may be re-employed on that date or thereafter;*
- (b) *Person paid from contingencies;*
- (c) *Work-charged staff;*
- (d) *Casual labour;*
- (e) *Contract Officers; and*
- (f) *xxx... xxx... xxx... "*

19. Records reveal that instructions dated 27.11.2014 were issued by the Haryana Government, which essentially is a Policy for providing compassionate financial assistance to the family of the deceased person, working in Government Departments/ Boards/ Corporations/ Public Undertakings under the Haryana Government on *ad hoc*, daily wage, contract basis. Perusal of the instructions would show that it was specifically mentioned therein that there being no policy for providing *ex gratia* compassionate financial assistance to the family of such *ad hoc*/contractual employees, the government of Haryana took a decision to provide financial assistance to the tune of Rs. 3 lacs to them. The relevant provisions of the Policy are reproduced as under:

- “(i) These instructions shall come into force with effect from the date of issue of instructions.*
- (ii) Definitions:- In these rules unless the context otherwise requires:-*
 - (a) “Appointing authority” means the Head of Department/competent Authority as the case may be, where the deceased person was working.*
 - (b) “Compassionate financial assistance” means the financial assistance to the tune of Rs.3.00 lacs, provided as ex-gratia assistance to the completely*



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dependent members of the indigent family of the deceased

(c) xxxxxxxx

(d) “Deceased Person” means the person who was working in any government department/boards/corporation/public undertakings under Haryana government on ad hoc, daily wage, contract basis including the persons working on contract basis through service providing agency at the time of his / her death.”

20. Careful perusal of the relevant statutory provisions would show that as per Rule 2 of the Compassionate Assistance Rules 2006, the object of the said rules is to assist the family of a deceased/missing Government employee in tiding over the emergent situation, resulting from the loss of the bread-earner while in ‘regular service’ by giving financial assistance. It is further clarified in Para 3 of the said rules that the eligibility to receive financial assistance shall be as per the provisions in the pension/Family Pension Scheme, 1964. Although, in Para 3 of the Family Pension Scheme, the word 'temporary' has been mentioned, however, the same is preceded with the phrase 'all regular employees', making it abundantly clear that the temporary service mentioned therein, does not include an *adhoc* or contractual employee. This further stands clarified by a perusal of Para 11 of the Scheme, wherein work charged, casual labour and contract officers are specifically excluded from the ambit of the pension scheme. The eligibility under various clauses of the Pension Scheme, has to be examined in the context of the object of the 2006 Rules, as envisaged under Rule 2 thereof, and the contents of the



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Pension Scheme cannot be read in isolation. The entire scheme of the 2006 Rules examined harmoniously, would show, that the same is for providing *ex gratia* financial assistance to the family of deceased employees in 'regular service'. The respondent-petitioners have themselves placed on record the 2014 Policy for grant of financial assistance, *inter alia* to contractual employees, which clearly records that there was no policy for providing *ex gratia* compassionate financial assistance to the category of employees mentioned therein, which clarifies beyond doubt, that the respondents-petitioners were not eligible to get any benefit under the 2006 Rules. Since the Policy of 2014 came into effect on 27.11.2014, the respondent petitioners, could not be granted benefit under the said policy also. From a harmonious reading of the relevant provisions of the aforementioned rules, it is clear that the benefit of *ex gratia* assistance under the Compassionate Assistance Rules 2006 can only be extended to the family members of a deceased employee in regular service.

21. The decision of the learned Single Judge in the case of *Kelo Devi* supra, would not come to the aid of the respondent-petitioners as the same was based upon its own facts and paragraph 3 of the pension scheme was not considered therein. The learned Single Judge after examining the provisions of para 4 of Pension Scheme, inter-alia held in paragraphs 14 to 16, that the appointment of the husband of the petitioner therein, was as per regular selection process, after he had fulfilled the requirement of obtaining medical



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fitness certificate, as required under Rule 3.1 of the Punjab Civil Service Rules, and would be governed by Haryana Service Rules, 1995. The relevant observations in paragraph 16, are extracted hereunder:

“16. Upon the petitioner having submitted a representation for grant of financial assistance on the death of her husband, apparently such claim was processed and a clarification in that regard was sought by the General Manager, Haryana Roadways, Jind from the Director General, State Transport, Haryana vide letter dated 16.11.2010, appended as Annexure R2 along with the written statement. Such document would be a clincher in the present case. A perusal of the same would reveal that the husband of the petitioner had been selected and appointed to the post of heavy vehicle driver/bus driver in pursuance to a process of selection conducted by the Haryana Staff Selection Commission. As such, for all intents and purposes, the appointment of the husband of the petitioner would have to be construed to have been effected on a regular basis even though against a temporary post. It is only on account of the operation of the statutory Rules that the language ‘contractual/daily wage’ has been implied in the appointment letter. Such language cannot work to the detriment of the present petitioner insofar as her claim for grant of ex-gratia assistance under the 2006 Rules is concerned. The service rendered by the late husband of the petitioner would certainly fall within the scope and ambit of the expression ‘temporary service’ under the Family Pension Scheme, 1964 which, in turn, would render the petitioner to be eligible for the grant of financial assistance under the 2006 Rules.”

22. It is therefore abundantly clear that the premise on which the appointment of the husband of Kelo Devi was construed as ‘regular service’, was on the basis of the peculiar facts involved. Even if it was subsequently found in the Review Petitions filed by the Appellants that the appointment was not by the staff selection board, that would not change the premise on which the decision was



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based. Nothing has been placed on record to show that the service conditions of the deceased employees in the instant matters, were governed by statutory rules or that they had got the requisite Medical Certificate of Fitness as envisaged under the Rules and Pension Scheme.

23. Be that as it may, in view of our findings with regard to the object of the 2006 Rules, as discussed above, and in the absence of any challenge to the vires of rule 2 thereof, the respondent-writ petitioners cannot seek any benefits merely on the ground of alleged parity/equality. In a recent decision of the Hon'ble Supreme Court in the case of 'Tinku v. State of Haryana', 2024 SCC Online 3292, where the claim of compassionate appointment was under consideration, it was inter-alia held:

“11. The very idea of equality enshrined in Article 14 is a concept clothed in positivity based on law. It can be invoked to enforce a claim having sanctity of law. No direction can, therefore, be issued mandating the State to perpetuate any illegality or irregularity committed in favour of a person, an individual, or even a group of individuals which is contrary to the policy or instructions applicable. Similarly, passing of an illegal order wrongfully conferring some right or claim on someone does not entitle a similar claim to be put forth before a court nor would court be bound to accept such plea. The court will not compel the authority to repeat that illegality over again. If such claims are entertained and directions issued, that would not only be against the tenets of the justice but would negate its ethos resulting in the law being a causality culminating in anarchy and lawlessness. The Court cannot ignore the law, nor can it overlook the same to confer a right or a claim that does not have legal sanction. Equity cannot be extended, and that too negative to confer a benefit or advantage without legal basis or justification.”



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24. A Division Bench of this Court, while considering the 2003 Rules, in the case of *State of Haryana vs Jyotsana*, 2013 SCC online (P&H) 54377 observed as under:-

*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. v. Ramanuja Match Industries* 1985 (1) S.C.C 218 : AIR 1985 Supreme Court 278*

"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."

25. The matter may be examined from another angle. The object of the 2006 Rules is to provide assistance to the family of a deceased/missing government employee, in tiding over the 'emergent' situation, resulting from the loss of the 'bread -earner'. Rule 4 requires that the application for financial assistance is to be made in Form 'A'. Clause 3 of the said Form 'A' requires disclosure of monthly income of the family, from all sources. There



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is not even a single averment in the writ petitions, that the deceased spouses of the respondent-writ petitioners, were the 'bread-earners' or that the petitioners had filled Form 'A' truthfully disclosing the total income of the family from all sources. In absence of such pleadings or material, it cannot be assumed that the respondent writ-petitioners were eligible for benefits under the 2006 Rules.

26. We need not detain ourselves regarding the alleged discrimination qua benefits under the regularization policy, as that is not the subject matter in these appeals, and the respondent-writ petitioners have not laid challenge to impugned orders.

27. However, before concluding, it would be fruitful to extract the relevant observations of a division bench of this Court, in the case of Dharmender vs. State of Haryana (supra), wherein challenge was laid to the vires of Rule 3 (d) (i) & (ii) of the 2003 Rules. Paragraph 5 & 6 read as under:

“5. Mr. Manipur, learned counsel appearing for the petitioner submits that had the claim of the father of the petitioner for regularisation been considered at the proper time, his services would have been regularized before he passed away on 6.7.1998. In those circumstances, the claim of the petitioner would have been considered under the earlier instructions and not under the 2003 Rules. Even otherwise, Rule 3(d)(i) (ii) is ultra vires Article 14 of the Constitution of India. The object of the 2003 Rules is to give assistance to the family of a deceased employee to tide over the emergent situation resulting from the loss of the bread earner. This objective cannot be frustrated merely on the basis of length of service of regular employee. There can be no distinction between a regular employee and the employees working on daily wages, casual labourers, Apprentice, Work Charged Employees, Ad hoc or contractual employee or those who are working on reemployment. There is no nexus



with the object sought to be achieved by excluding this category of employees from the deceased government employee. In support of this submission, learned counsel has relied on a judgment of the Supreme Court in the case of D.S. Nakara v. Union of India. Learned counsel also cites Rule 4 of the Family Pension Scheme, 1964 contained in the Punjab Civil Services Rules, and submits that even for grant of family pension, the minimum period of only one years continuous service is required. Therefore, a different yardstick cannot be adopted for the definition of a deceased employee under the 2003 Rules.

6. We are unable to accept the submissions made by the learned counsel. The object of the Family Pension Scheme, 1964 cannot be made applicable to the special provisions contained under the 2003 Rules. The principle of law laid down by the Supreme Court in the case of D.S. Nakara (supra) would not be applicable in the facts and circumstances of the present case. Therein the Supreme Court was considering the eligibility of the retired employees for the grant of liberalised pension. The employees who retired prior to 1st April, 1979 had been rendered ineligible. The Supreme Court held the fixation of the date to be wholly irrational as it had resulted in dividing of the homogeneous class of retired employees. In the present case, under Rule 3(d)(i)(ii), a distinction is made between regular employees and other employees. It is by now settled proposition of law that regular employees are generally given security of tenure under the relevant statutory rules. When an employee is appointed on a regular basis, his conditions of service are provided under the Statutory Service rules governing a particular service. On the other hand, daily wagers, casual workers, work charged employees, ad hoc or contractual employees have different rights under different statutory provisions. Therefore, a valid classification has been made under the 2003 Rules in defining “a deceased government employee” for the purpose of eligibility of a dependent for appointment on compassionate grounds. Similarly, the provision of 3 years regular service cannot be said to be either irrational or arbitrary. It is well know that on being appointed to government service, an employee is generally put on probation. In normal circumstances, the period of probation maybe for two years. There may also be provision for extension of the period of probation. Generally, the rules provide that the maximum period



of probation shall be three years i.e. the initial period of two years may be extended by one more year. On confirmation, the employee acquires a status of regular employee. Keeping in view the aforesaid principle, the prescribed period of three years service cannot be said to be either irrational or arbitrary. This view of ours will find support from the judgment of the Supreme Court in the case of E.P. Royappa v. State of Tamil Nadu. In this case, the Supreme Court has clearly held that reasonable classification of persons based on an intelligible differentia is permissible classification under Article 14 of the Constitution of India. In the case of In Re, Special Courts Bill 1978, the Supreme Court has held that the classification must not be arbitrary, artificial or evasive and must be based on some rule and substantial distinction bearing a just and reasonable relation to the object sought to be achieved. In other words, the classification has to be founded on an intelligible differentia which distinguishes those which are grouped together from others who are left out and the said differentia has a rational relation with the object sought to be achieved by the statute or the proviso. In our opinion, Rule 3(d)(i)(ii) cannot be struck down on the ground that it does not apply to all employees of the State of Haryana irrespective of the nature of their appointment. May be, a better formula could be evolved, but the Court cannot substitute its wisdom for the Government, in the absence of unreasonableness or perversity. Policy matters have to be left to the Government. The Supreme Court considered similar arguments in the case of Tamil Nadu Education Department Education Department Ministerial and General Subordinate Services Association etc. v. State of Tamil Nadu. The relevant observations made by the Supreme Court in the aforesaid judgment are as follows:—

“In service Jurisprudence integration is a complicated administrative problem where in doing broad justice to many, some bruise to a few cannot be ruled out. Some play in the joints, even some wobbling, must be left to Government without fussy forensic monitoring, since the administration has been entrusted by the Constitution to the Executive, not to the Court. All life, including administrative life involves experiment, trial and error, but within the leading strings of fundamental rights, and absent unconstitutional “excesses”, judicial correction is not right. Under Article 32, this Court is the



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constitutional sentinel, not the national ombudsman. We need an ombudsman, but the Court cannot make do.”

(Emphasis supplied by us.)

28. We are therefore of the considered view, that the benefits under the Compassionate Assistance Rules of 2006, cannot be granted to the respondent-writ petitioners as the same were admissible only to the dependent family members of a deceased government employee of Haryana, who was in regular service.

29. For the reasons recorded above, the instant Letters Patent Appeals are allowed and the orders dated 03.10.2023 and 15.05.2024, passed by the learned Single Judge are set aside. CWP-5716-2012 and CWP-17212-2018 are dismissed.

30. Pending application(s), if any, stand(s) disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

14.01.2026

Neeraj/raj

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