

STATE OF HARYANA AND ANR.

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v.

DHAN SINGH

DECEMBER 4, 1995

[K. RAMASWAMY AND K.S. PARIPOORNAN, JJ.]

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*Service Law :*

*Punjab Civil Services Rules, Vol. III.*

*Rule 6.16—B(a)—Appointment on Compassionate grounds—  
'Family'—Held, the moment the brother of a deceased employee crosses 18  
years he no longer remains to be dependent member of family of such  
deceased employee—Not entitled to appointment on compassionate grounds.*

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The State Government filed the instant appeal against the judgment  
of the High Court directing appointment of brother of deceased employee  
who died in harness.

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Allowing the appeal, this Court

Held : The High Court erred in giving direction to appoint the  
brother of the deceased on compassionate grounds. The Government of  
Haryana by Circular dated 9.3.1999 and proceedings dated 31.10.1989  
decided to provide employment to one dependent member of the family of  
the employee who died in harness. As per the definition of 'family' given  
in Rule 6.16-B(a) of the Punjab Civil Services Rules, Vol. III, applicable to  
Government of Haryana, a brother will be a member of the family as  
dependent if he is below 18 years. The moment he crosses 18 years, he no  
longer remains to be dependent member of the family of the deceased  
employee. [176-E, 177-E]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12172 of  
1995.

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From the judgment and Order dated 30.12.93 of the Punjab &  
Haryana High Court in C.W.P. No. 8419 of 1993.

Ms. Indu Malhotra for the Appellants.

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A Prem Malhotra for the Respondent.

The following Order of the Court was delivered :

Leave granted.

B We have heard learned counsel on both sides. The question is whether the brother of the deceased employee who died in harness is eligible for employment on compassionate grounds. The High Court of Punjab and Haryana by order dated December 30, 1993 in C.W.P. No. 8419/93 directed appointment of the brother of the deceased employee. Feeling aggrieved, the State has come up in appeal.

C The only question is whether the brother is a dependent of the deceased employee who died in harness. By proceedings dated October 31, 1985, the Government had stated that the underlying idea to introduce the scheme was to help the bereaved family of a deceased employee immediately by way of providing employment to one dependent of the deceased Government employee in addition to *ex-gratia* payment etc. The Government in an earlier Circular dated 9th March, 1979 had stated that the Government took the decision that the family members of the employee, who died while in service or retired due to disability would be given the facility of employment. Accordingly directions were given. The word 'family' has been defined under Rule 6.16-B(a) of the Punjab Civil Services Rules, Vol.III applicable to the Government of Haryana which reads thus:

"6.16-B. (1) For the purpose of this rule :

F [a] "family" shall include the following relatives of the officer -

(i) Wife, in case of male officer;

(ii) Husband, in case of female officer;

G (iii) Sons; [including step-children and adopted children]

(iv) unmarried and widowed daughters; [including step-children and adopted children]

H (v) brothers below the age of 18 years and unmarried and widowed sisters, including step-brothers and sisters;

- (vi) Father; [including adoptive  
parents in case of
- (vii) Mother; individuals whose personal  
law permits adoption]

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- (viii) married daughters. and

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- (ix) Children of a pre-deceased son.

A reading of this Rule would clearly indicated that for the purpose of the above rules 'family' includes the wife, in case of male officer, husband, in the case of a female officer, sons, unmarried and widowed daughters [including step children and adopted children, brothers below the age of 18 years unmarried and widowed sisters [including step-brothers and sisters], father, mother [including adoptive parents in case of individuals whose personal law permits adoption], married daughters and children of a pre-deceased son. It would thus be seen that in the case of a brother, he will be a member of the family as dependent if he is below 18 years. If he seeks employment under the rules, he cannot be appointed if he is below 18 years and has not become major. The moment he crosses 18 years, he no longer remains to be the dependent member of the family of the deceased Government employee.

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Shri Prem Malhotra, learned counsel appearing for the respondent has stated that previously they had appointed the brother of the deceased employee and, therefore, the Government is estopped by contending that the brother is not a dependent of the deceased Government employee. It might be that some Department had wrongly given the benefit but such wrong action cannot become right, in the face of specifically unambiguous language in which the rules are couched. Under these circumstances, the High Court was not right in given direction to appoint the brother of the deceased on compassionate grounds.

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The appeal is allowed accordingly. If the widow of respondent's brother is eligible for employment, it would be open to her to make an application and the Department is directed to consider her application according to the rules. No costs.

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R.P.

Appeal allowed.