

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4860 of 2012 (O&M)
Date of Decision: 15.01.2015

Ishwanti Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Arvind Rajotia, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana
for the State.

R.P. Nagrath, J. (Oral)

Challenge in the instant petition by invoking jurisdiction of this Court under Article 227 of Constitution of India is to the order dated 13.9.2011 (Annexure P-4) passed by the trial Court whereby amendment of the plaint has been refused.

Plaintiff is the wife of late Deepak Kumar, who was working with the Department of Animal Husbandry. Deepak Kumar died on 03.01.2008. The suit was filed for seeking benefits under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for brevity, 2006 Rules).

There is no dispute that the assistance under 2006 Rules is permissible only to those employees who were in service of the department on the date of death. It was stated in the plaint itself that the plaintiff/petitioner came to know about the termination order passed by the department but now by way of amendment, the petitioner seeks to challenge the termination order.

I have heard learned counsel for the parties, perused the impugned order, the paper book and find that the trial Court was quite correct in rejecting the application. The trial Court observed as under:-

“Admittedly, Deepak Kumar (husband of plaintiff) has expired on 03.01.2008 and from the written statement, it is clear that his services were terminated on 01.04.2001. Admittedly husband of plaintiff has not challenged his termination order till his death. There has been lapse of long period of seven years. Therefore, at this stage, the plaintiff cannot be allowed to amend the plaint as sought in para no. 6 of the application under consideration on the ground that she has come to know about the factum of termination of service from written statement. Even otherwise if at this stage, the application is allowed, it will definitely change the nature of the suit. Hence, the application in hand is dismissed.”

Such an amendment in the suit instituted in the year 2009 seeking assistance under 2006 Rules, is much belated and would

obviously amount to misjoinder of causes of action.

The instant petition is, therefore, dismissed. The prayer for challenging the termination order is a separate cause for which the petitioner, if permissible, may have a separate remedy by filing independent suit.

15.01.2015
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(R.P. Nagrath)
Judge