

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.14080 of 2013 (O&M)
Date of decision: 19.05.2015.**

Lajwanti

..Petitioner

Versus

Haryana Vidyut Parsaran Nigam Limited & Ors. ..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. J.S. Mannipur, Advocate
for the petitioner.

Mr. P.S. Poonia, Advocate
for the respondents.

Daya Chaudhary, J.

The prayer in the present writ petition is for issuance of a writ in the nature of certiorari for quashing the impugned rejection order dated 26.06.2013 (Annexure P-9) issued by respondent No.3, whereby, claim of the petitioner for grant of family pension and deemed date of regularization has been declined on the ground that it is an old matter of 24 years and service record has not been traced out in spite of best efforts. A prayer has also been made for issuance of direction to the respondents to grant deemed date of regularization to the husband of the petitioner and thereafter, to grant her family pension with all consequential benefits along with interest.

The petitioner is widow of late Sh. Kulwant Rai, who was

appointed on work-charge basis as Mistry on 04.10.1977 and thereafter, he was made work-charge Shift Attendant on 01.07.1987. The husband of the petitioner expired on 13.11.1988 and after his death, she was given compassionate appointment as Peon. She was not granted family pension on the ground that in the service book, the word 'regular' was not mentioned and pension was granted under E.P.F. Scheme.

Learned counsel for the petitioner submits that at the time of death of husband of the petitioner, instructions dated 08.02.1988 supplemented with instructions dated 04.07.1988 were applicable. As per decision that from 01.01.1988, there shall be no work charge establishment and all the employees working in the Board on work charge basis shall be deemed to have been regularized with effect from 01.01.1988 still, the petitioner was denied family pension as her husband was not regularized. Learned counsel further submits that similar controversy arose in case of one Smt. Kamlesh Rani, whose husband late Sh. Gian Chand Chowkidar died on 29.01.1990. She filed CWP No.419 of 1998 titled as Kamlesh Rani vs. Haryana State Electricity Board, which was disposed of on 30.01.2001 with a direction to the respondents to regularize the services of her husband. Said decision was also followed in case of one Smt. Kamla Devi widow of Late Sh. Nanak Chand, who filed CWP No.18785 of 2007 and benefit of deemed date of regularization was granted with effect from 01.01.1988 along with all the consequential benefits. Learned

counsel also submits that in '**Chameli Devi vs. HPGCL**' CWP **No.11530 of 2003** decided on **21.03.2012**, it was held that widow of regular employee is entitled to family pension under the Family Pension Scheme and not under E.P.F. Scheme. Similar view was also taken in '**Munshi Ram vs. Haryana Vidyut Parsaran Nigam Ltd. and others**' CWP **No.9440 of 2010**. Learned counsel also submits that the case of the petitioner is squarely covered by the decision of **'S.K. Mastan Bee vs. The General Manager, South Central Railway' reported as 2003(1) SCT 367.**

Learned counsel for the respondents opposes the submissions made by learned counsel for the petitioner on the ground of inordinate delay. The husband of the petitioner was working as work charged employee and his services were never regularized and as such, the petitioner is not entitled for family pension under the Family pension Scheme as the same is to be given in case, the deceased employee was working as a regular employee of the department.

Heard arguments of learned counsel for the petitioner as well as learned counsel for the respondents and have also perused the impugned order and other documents available on the file.

Admittedly, the claim of the petitioner has been rejected on the ground that husband of the petitioner was not working on regular basis as he was working on work charged basis.

The controversy in case of **Munshi Ram's case (supra)** was also similar wherein judgment of Hon'ble the Supreme Court in

State of Karnataka and others vs. C. Lalitha 2006(2) RSJ 19 as well as judgment of Division Bench of this Court in **Jugal Kishore vs. State of Haryana and others, 2009(3) SCT 433** have been relied upon. The relevant portion of the judgment of **Jugal Kishore's case (supra)** is reproduced as under: -

“After hearing learned counsel for the parties and perusing the paper book with their able assistance, we find that this petition deserves to succeed. We see no force in the contention raised on behalf of learned counsel for the respondents that the benefit of higher pay scales of Rs.950-1400 w.e.f 1.1.1986 and Rs.3050-4350 w.e.f. 1.1.1996 could not be given to the petitioner merely on the ground that he has sent the legal notice in the year 2007 after his retirement. It has come on record that similarly situated Book-Binders have already been granted the aforementioned benefit. Moreover, it was incumbent upon the respondent University to grant the said benefit not only the petitioner but to all such employees once this Court has decided the issue in the case of V. Sreedharan Nair (supra), which has admittedly attained finality. This Court has already held in a number of cases that it is not necessary for every affected person to approach the Court seeking an order in his/her favour once the matter has already been settled by the Court. The benefit of judicial pronouncements after the same attains finality is required to be given automatically to all such persons whose

cases are covered by such decision. We, thus, strongly disapprove the stand taken by the respondents and find that the case of the petitioner is squarely covered by the decision rendered in case of V. Sreedharan Nair (Supra)."

In the present case, husband of the petitioner was entitled for regularization as per Policy of the respondents but he could not be regularized as subsequently, he expired. The husband of the petitioner was entitled for deemed date of regularization. Had the husband of the petitioner been regularized as per Policy, then the petitioner could have been entitled for family pension.

Accordingly, taking into consideration the facts and circumstances of the present case and the issue raised in the judgments as mentioned above, the present writ petition deserves to be allowed and the impugned order dated 26.06.2013 (Annexure P-9) is hereby quashed with a direction to respondents to consider the case of the petitioner by keeping in view the deemed date of regularization of her husband and to grant family pension in view of judgment of **Kamlesh Rani's case (supra)** as well as **Munshi Ram's case (supra)**.

However, it is made clear that the petitioner shall be entitled for arrears of 38 months prior to date of filing of this writ petition.

19.05.2015
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(DAYA CHAUDHARY)
JUDGE