

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 14975 of 2013

Date of Decision : August 04, 2015

Manjeet Kaur and another Petitioners

Vs.

Punjab State Power Corporation Ltd.
and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Aftab Singh Khara, Advocate
for the petitioners.

Mr. Hitesh Pandit, Advocate
for the respondent – Corporation.

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DEEPAK SIBAL, J. :

Husband of petitioner no. 1 – Prabjeet Singh, while serving the respondent Punjab State Power Corporation Limited (hereinafter referred to as – the Corporation), on 19.04.2011, submitted an application seeking voluntary retirement, but before the same could be accepted and within the notice period, which admittedly is three months, through an affidavit dated 25.04.2011, he sought revocation of his application dated 19.04.2011, filed

by him earlier seeking voluntary retirement. The affidavit filed by him was processed in the office of the respondent Corporation and one such letter dated 18.05.2011 showing that the same was processed at least prior to 18.05.2011 has been placed on the record of this case as Annexure P-2. This letter has not been denied by the respondent Corporation.

In spite of the fact that the husband of petitioner no. 1 had sought revocation of his application seeking voluntary retirement before the expiry of the notice period of three months and before acceptance of the same, through order dated 17.06.2011, husband of petitioner no. 1 was voluntarily retired by the respondents w.e.f. 22.06.2011.

As per the law settled by the Apex Court in **J. N. Srivastava vs. Union of India and others** reported as **1998 (9) SCC 559**, husband of petitioner no. 1 was well within his rights to revoke his application seeking voluntary retirement within the notice period and before the acceptance of the same. The relevant observations in **J. N. Srivastava's** case (*supra*) are as under :-

“3. The short question is whether the appellant was entitled to withdraw his voluntary retirement notice of three months submitted by him on 3-10-1989 which was to come into effect from 31-1-1990. It is true that this proposal was accepted by the

authorities on 2-11-1989. But thereafter before 31-1-1990 was reached, the appellant wrote a letter to withdraw his voluntary retirement proposal. This letter is dated 11-12-1989. The said request permitting him to withdraw the voluntary retirement proposal was not accepted by the respondents by communication dated 26-12-1989. The appellant, therefore, went to the Tribunal but the Tribunal gave him no relief and took the view that the voluntary retirement had come into force on 31-1-1990 and the appellant had given up the charge of the post as per his memo relinquishing the charge and consequently, he was estopped from withdrawing his voluntary retirement notice. In our view the said reasoning of the Tribunal cannot be sustained on the facts of the case. It is now well settled that even if the voluntary retirement notice is moved by an employee and gets accepted by the authority within the time fixed, before the date of retirement

is reached, the employee has locus poenitentiae to withdraw the proposal for voluntary retirement. The said view has been taken by a Bench of this Court in the case of [Balram Gupta v. Union of India](#), 1987 (Supp) SCC 228. In view of the aforesaid decision of this Court it cannot be said that the appellant had no locus standi to withdraw his proposal for voluntary retirement before 31-1-1990.”

To the same effect is a Division Bench judgment of this Court in Union of India and others vs. Smt. Saroj Chaudhary and others reported as 2012 (4) RSJ 120, as also a Single Bench judgment of this Court in Satbir Singh (dead) represented by his widow vs. State of Haryana reported as 1996 (1) SLR 587.

Prabjeet Singh – husband of petitioner no. 1 died on 08.07.2011.

In view of the observations made above, since the petitioner no.1's husband had sought withdrawal of the application moved by him for voluntary retirement within the notice period and that too before the same had been accepted, I have no hesitation to hold that till the date of death of Prabjeet Singh, he would be deemed to be in the service of the respondent

Corporation.

This takes me to the other issue raised in the petition. The petitioners, who are the legal heirs of late Prabjeet Singh, had applied for seeking compassionate appointment as per the applicable policy of the respondent Corporation. The same was declined only on the ground that Prabjeet Singh had retired from service w.e.f. 22.06.2011 i.e. before his death on 08.07.2011, and thus, as per the respondent Corporation, Prabjeet Singh not being an employee of the respondent Corporation at the time of his death, the petitioners would not be entitled for appointment on compassionate basis.

In view of observations made above to the effect that Prabjeet Singh would be deemed to be in service of the respondent Corporation till the date of his demise on 08.07.2011, the petitioners are entitled to the consideration of their case for appointment on compassionate basis as per the applicable policy of the respondent Corporation.

In view of the above, it is directed that the respondent Corporation would now consider the case of petitioner no. 2 for appointing him on compassionate basis on account of death of his father Prabjeet Singh, as per the applicable policy, within three months from the date of receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

August 04, 2015
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