

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 3553 of 2011

Date of Decision : October 30, 2015

Krishna Devi Petitioner
Vs.
State of Haryana and another 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. Sandeep Sharma, Advocate
for the petitioner.

Mr. Shruti Jain Goyal, AAG, Haryana.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks the issuance of a direction to the respondents to count the period of the service of her late husband Shri Randhir Singh from 01.07.1992 to 02.12.1996 for the purpose of pension, gratuity and leave encashment.

The facts, in brief, are that the late husband of the petitioner joined the services of the Haryana Roadways as a Conductor in the year 1976. On account of unauthorized absence, he was departmentally proceeded against and on having been found guilty of the charged misconduct, on 01.07.1992, his services were terminated. On appeal, the

Additional State Transport Controller, Haryana, through order dated 28.11.1996, by taking a lenient view, ordered his reinstatement on the ground that he would be considered a fresh appointee at the time of joining service in pursuance to the appellate order. However, the services rendered by him between his initial appointment in the year 1976 till the date of termination of his services on 01.07.1992 were ordered to be counted towards his pensionary benefits.

A perusal of the order dated 28.11.1996, through which the appeal of petitioner's late husband was allowed, shows that it specifically provides that by taking a lenient view in the matter, while setting aside the order of his termination, he, on his appointment in pursuance to the appellate order, was to be considered a fresh appointee. It was further ordered that his prior service between his initial appointment in the year 1976 till the date of termination of his services on 01.07.1992 would be counted towards pension and other retiral benefits. The order dated 28.11.1996 was neither challenged by the petitioner's late husband nor has been challenged by the petitioner through the present petition. It has, thus, attained finality. That being so, the relief claimed for by the petitioner cannot be granted.

Even otherwise, the petitioner's husband had been found to be unauthorizedly absent, for which his services were ordered to be terminated. It was only by taking a lenient view in the matter that he was ordered to be reinstated. It is the admitted position that the benefit of his past service from the date of his initial appointment in the year 1976 till the date of his

termination i.e. 01.07.1992 has been counted towards the payment of his retiral benefits. The appellate order was passed after showing a great degree of leniency in favour of the petitioner's late husband. That leniency cannot be ordered to be translated into the right, especially without there being a challenge to the order denying such right.

Admittedly, for the period of claim i.e. from 01.07.1992 to 28.11.1996, the petitioner's late husband did not discharge any duty. On the principle of '*no work no pay*', the petitioner deserves no relief.

In view of the above, finding no merit in this writ petition, the same is ordered to be dismissed with no order as to costs.

(DEEPAK SIBAL)
JUDGE

October 30, 2015

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