

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

CWP No.1815 of 2015 (O&M)

Date of Decision: 04.02.2015

Union of India & Ors.

... Petitioners

VS.

Jaswinder Kaur & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE RAJ MOHAN SINGH

1. Whether Reporters of 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. Namit Kumar, Advocate for the petitioners

SURYA KANT, J. (Oral)

(1) The Union of India and the Chief Post Master, Haryana Circle, Ambala have laid challenge to the order dated 10.01.2014 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby, the Tribunal has directed the petitioner-authorities to grant family pension to respondent No.1. The facts giving rise to the aforesaid order are to the following effect.

(2) The husband of respondent No.1, namely, Harjinder Pal (since deceased) was engaged as Chowkidar in the Post Office building, Sector 8, Panchkula in the year 1991. It is undeniable that as per the policy prevailing in the Department, a daily-wager/contractually-appointed employee was entitled for conferment of 'temporary status' on his putting in a continuous service of one year, also followed by regularization of services

subject to availability of vacancies. Consequently, such a status was conferred on the husband of respondent No.1 w.e.f. 01.01.1992 and soon thereafter, he was also admitted to the benefit of GPF and CGEGIS facility like other temporary Government employees. This fact stands proved on record from the salary slip of deceased employee (Annexure A-7).

(3) It is also an admitted fact that husband of respondent No.1 was unfortunately murdered while on duty and a formal FIR to this effect was registered in Police Station Sector 5, Panchkula. Having lost the sole bread-earner of the family, the first respondent made a representation for her appointment on compassionate grounds but the same was denied by the authorities vide letter dated 11/15.06.2009 (Annexure A-12). As the first respondent was not paid pensionary benefits also on the premise that her husband was not a 'regular employee', she approached the Tribunal seeking a direction for her compassionate appointment on the ground that the deceased husband of the first respondent had rendered 17 years of regular service before his unfortunate demise.

(4) The Tribunal while granting the aforesaid relief has taken notice of Rule 54(2) of the Central Civil Services (Pension) Rules, 1972 as was interpreted in various judgements, eight of which have been cited by the Tribunal itself. Thereafter, it has been concluded with reference to the decision of the Hon'ble Supreme Court in **Jagrit Mazdoor Union (Regd.) vs.**

Mahanagar Telephone Nigam Ltd., (1990) Suppl. SCC 113

that the deceased employee having completed three years of continuous service ought to have been treated as member of regular establishment for all intents and purposes so as to grant the benefits admissible to a Group-D employee on regular basis.

(5) We have heard learned counsel for the parties at considerable length and gone through the record.

(6) The engagement of the deceased employee, conferment of 'temporary status' or the fact that he served the petitioners for more than 17 years are not in dispute. The question that arises for consideration is whether the petitioners can still be heard to say that the deceased was not a 'temporary employee' and hence his family is not entitled to draw family pension?

(7) In our considered view, the Tribunal has rightly given a pragmatic construction to the Rules in force to hold that after completion of three years' satisfactory continuous service as a 'temporary employee', the deceased ought to have treated at par with a regular employee for the purpose of drawing benefits admissible to Group-D employees on the regular establishment.

(8) In the peculiar facts and circumstances where an employee is with unblemished service of more than 17 years, unfortunately murdered while performing his duties as a Chowkidar, we are of the considered opinion that the order of the

Tribunal deserves sustenance with full force in law as well as equity.

(9) We thus do not find any merit in this writ petition which is accordingly dismissed. However, two months' time more is granted to the petitioners to give effect to the order passed by the Tribunal, along with consequential benefits to the first respondent.

(10) **Dasti.**

(Surya Kant)
Judge

04.02.2015
vishal shonkar

(Raj Mohan Singh)
Judge