

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23558 of 2015

DATE OF DECISION: NOVEMBER 4, 2015

URMILA KUMARI

...PETITIONER

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes/No

PRESENT: MR. SURINDER SHARMA, ADVOCATE FOR THE PETITIONER.

M. JEYAPPAUL, J.

1. Heard the submissions made by learned counsel appearing for the writ petitioner.
2. The writ petitioner being the wife of Shiv Kumar who served as Driver Passenger Loco Foreman Diesel at Jalandhar sought for pension, gratuity and leave encashment of deceased Shiv Kumar contending that though Shiv Kumar was removed from service on 16.7.1997, he was allowed to continue in service considering his length of service and was permitted to demit office on voluntary retirement on 4.2.1999.
3. It was contended by the respondents that the husband of the writ petitioner faced a charge which culminated in awarding punishment of removal from service. The employee who was removed from service is not entitled to pensionary benefits or his widow to the family pension, it was further contended.

4. It is found that Shiv Kumar, the husband of the writ petitioner was removed from service as per the orders passed by the respondents on 10.7.1997. The appeal preferred by him and the revision petition thereafter filed by him had been dismissed. The fact remains that the husband of the writ petitioner had served in the Department till 4.2.1999 despite the order of removal from service passed on 10.7.1997.

5. Learned counsel appearing for the writ petitioner in the background of the above factual position would submit that the order of removal from service was recalled and the husband of the writ petitioner was allowed to serve in the Department and thereafter he was permitted to demit office on voluntary retirement.

6. The file produced by the respondent would go to establish that though the order of removal from service was passed by the respondent on 10.7.1997, he continued in service till 4.2.1999 and thereafter, he was removed from service. Had the husband of the writ petitioner permitted to serve even after the order of removal from service on the basis of recalling of the order of removal from service, he would not have preferred any appeal or revision petition before the competent Authorities. At any rate, there is no document produced by the writ petitioner to show that the husband of the writ petitioner demitted office on voluntary retirement on 4.2.1999. In my considered view, just because the Department had been negligent in giving effect to the order passed on 10.7.1997, it cannot be construed that the husband of the writ petitioner was allowed to continue in service nullifying the order of removal passed by the respondent and was

permitted to retire voluntarily from service. Inasmuch as the respondents have established that the husband of the writ petitioner was removed from service pursuant to the disciplinary proceedings for major penalty initiated against him, the question of grant of pensionary benefits except the benefits admissible under the Rules does not arise.

7. The writ petition stands dismissed.

(M. JEYAPPAUL)
JUDGE

November 4, 2015
Gulati

(DARSHAN SINGH)
JUDGE