

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

**CR No.7445 of 2016
Decided on: 07.11.2016**

The Executive Engineer, Flying Squad, PSEB (PSPCL), Bathinda

....Petitioner

Versus

Harinder Singh (deceased) through LR's and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Vikas Chatrath, Advocate
for the petitioner.

REKHA MITTAL, J.

The present petition directs challenge against order dated 26.08.2016 (Annexure P1) passed by the Additional Civil Judge (Sr. Division) Bathinda (hereinafter to be called as 'the Executing Court') whereby the judgment-debtor (petitioner herein) and proforma respondents have been directed to make certain payments to the legal heirs of Harinder Singh (since deceased) erstwhile employee of the Punjab State Electricity Board now known as the Punjab State Power Corporation Limited.

Harinder Singh was an employee of the Electricity Board and his services were terminated by the Board on 13.06.1996. The Additional Labour Commissioner Punjab, Chandigarh vide endorsement No.ID/21633-34 dated 26.05.1997 made a reference of industrial dispute between the workman and the management under Section 10(1)(C) of the Industrial Disputes Act, 1947 to the Industrial Tribunal, Bathinda for deciding "*Whether termination of services of*

workman Sh. Harinder Singh is justified and in order? If not so, to what relief is he entitled?"

During pendency of the reference, workman died on 24.04.1998 and his legal heirs were brought on record. The Tribunal made an award and a relevant extract therefrom reads as follows:-

*“Since the workman had already died on 24.04.1998 during the pendency of the reference, so the relief for reinstatement of the workman cannot be given. However, directions can be given to the respondents to pay full back wages to the legal heirs of the workman as per facts and ratio of the authority of Hon'ble Delhi High Court reported in **2010(1) SCT 57**. So, this reference is answered in favour of the LRs of the workman and against the respondents. The respondents are directed to pay full back wages to the LRs of the workman from the date of termination of his service i.e. 14.01.1991 till the date of his death i.e. 24.04.1998 with all consequential benefits within two months, in failure, the respondents shall be responsible for paying the arrears as ordered above with interest @ 12% per annum from due date till the actual realization.”*

Counsel for the petitioner, in order to assail the impugned order, has two fold submissions to make. It is argued that the legal heirs of the deceased are not entitled to leave encashment to the tune of Rs.58,870/- and gratuity ordered to be released in favour of legal heirs by way of consequential relief. In the alternative, it has been argued that as the award passed by the Tribunal has been challenged by way of CWP No.2748 of 2013, *“The Punjab State Power Corporation Limited vs Presiding Officer Industrial Tribunal, Bathinda and others”*, the amounts to be paid to the legal heirs of the workman (since deceased)

in pursuance of the impugned order may be ordered to be released subject to furnishing security to the satisfaction of Executing Court as has been ordered by this Court while ordering payment of back wages vide order dated 21.11.2013 passed in the aforesaid writ petition.

I have heard counsel for the petitioner and perused the paperbook particularly the impugned order.

Once the Industrial Tribunal has answered the award in favour of the workman but has expressed its inability to order his reinstatement due to his demise during pendency of the proceedings with a further direction to pay back wages from the date of termination of his services till his death with all consequential benefits, it is difficult to accept plea of the petitioner that the LR's of the deceased are not entitled to benefit of leave encashment, gratuity, pension, etc. However, as the respondent – Corporation has already challenged the award by way of a writ petition before this Court and all these questions with regard to payment of back wages and consequential relief would be the subject-matter of adjudication in those proceedings, without going into the merits, the petition stands disposed of but with liberty to the petitioner to file an appropriate application in the pending writ petition seeking furnishing of security by the LR's *qua* the benefits held to be payable to them for leave encashment, gratuity, pension, etc.

Disposed of accordingly.

07.11.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No