

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

**CWP-13418 of 2015 (O&M)**  
**Date of decision: 09.08.2016**

**Sudha Rani**

**.....Petitioner**

**versus**

**State of Punjab and Others**

**.....Respondents**

**CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.Gagneshwar Walia, Advocate for the petitioner  
Mr.Parupkar Singh Ghuman, Add. Advocate General Punjab

- 1. Whether Reporters of Local Newspapers 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?*

**Kuldip Singh, J. (Oral)**

**CM No.9438-CWP-2016**

Application is allowed. Judgment dated 4.8.2016 (Annexure P7) is taken on record.

**CWP-13418 of 2015 (O&M)**

Sh. Ramesh Chander, husband of the petitioner, who was working as a Patwari in the Revenue Department in the State of Punjab since 17.7.1982. During his service an FIR No.24 dated 22.12.2010 under Section 7 read with Section 13(2) of the Prevention of Corruption Act, 1988 was registered against him at Police Station of Vigilance Bureau, Amritsar. Sh. Ramesh Chander Patwari continued to perform his duties during the trial. Vide judgment dated 18.11.2014, he was convicted by learned Special Judge, Gurdaspur under section 7 and 13(2) of the Prevention of Corruption Act, 1988 and sentenced to undergo Rigorous Imprisonment for one year

and to pay a fine of Rs.5000/-. Against the said judgment, he preferred an appeal before this Court, which was admitted and vide order 11.12.2014 passed in CRM No.36978 of 2014 in CRA-S-4951-SB of 2014, his sentence was suspended. Unluckily, Ramesh Chander, Patwari died on 16.01.2015 when he was still performing the duties as Patwari.

It comes out that after his death, his widow-Smt. Sudha Rani/petitioner filed an application dated 02.02.2015(Annexure-P-5), seeking release of pensionary benefits to the family and for compassionate appointment, stating that Ramesh Chander, Patwari died on duty. Thereafter, the impugned order dated 12.02.2015(Annexure-P-6) was passed by the District Collector, Gurdaspur and conveyed vide endorsement dated 12.2.2015/18.02.2015, whereby the said Ramesh Chander, Patwari, since died, was dismissed from service from the date of his conviction recorded by the trial Court i.e. 18.11.2014. The operative part of the said order is reproduced as under:-

*Therefore, I Dr. Abhinav Trikha, IAS, District Collector, Gurdaspur by using the powers vested in me U/s 311(a) of the Constitution, Punjab Revenue Patwari rules 1996/2008 Rule 18(1) and Punjab Civil Services Rules 1970 rule 13(1), hereby dismiss Sh. Ramesh Chander Patwari, since died, from Govt. service from the date of his conviction recorded by the Court i.e. 18.11.2014.*

The factual position is not disputed.

I have heard learned counsel for the parties and have also carefully gone through the file.

The short question before this Court is as to whether after the death of the employee, one could be dismissed from the service under Section 311 (a) of the Constitution of India? I find the reply in negative.

Once, the person is dead and is not in existence, he could not be dismissed

from service nor any other action could be taken against him under any law or under Article 311(a) of the Constitution of India. This position is not disputed by the State Counsel.

Accordingly, the impugned order dated 12.2.2015 (Annexure-P-6), being illegal is hereby quashed.

Now, the next question arising for consideration is as to whether the petitioner is entitled to family pension and other service benefits of the deceased employee? I am of the view that since the dismissal order has been quashed, it would have the same effect as if Ramesh Chander, Patwari died in harness. It would follow that his family will be entitled for all the benefits of an employee who die in harness. The respondents are directed to release all the pensionary benefits, including family pension, gratuity, leave encashment, GPF, ex- gratia and arrears of the revision of pay etc. to the petitioner as per rules within three months from the date of receipt of the a certified copy of this judgment.

Regarding the request for compassionate appointment, the respondents No.1 and 2 are directed to consider the case of the petitioner and pass appropriate order in accordance with rules/ instructions within a period of three months from the date of the receipt of a certified copy of this judgment.

The present writ petition is allowed in aforesaid terms.

**09.08.2016**  
*gk*

**(Kuldip Singh)**  
**Judge**

Whether speaking/ reasoned:  
Whether Reportable:

Yes/ No  
Yes/No