

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

**CWP No.23547 of 2012
Date of decision: 13.06.2016**

Veena Devi

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Virender Kumar, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

RITU BAHRI, J.

The petitioner is seeking direction to the respondents to pay the service benefits/dues of her deceased husband-Puran Chand i.e. salary from June, 2009 to July, 2011, DCRG, Leave Encashment, Family Pension and Ex-gratia Financial Assistance under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 w.e.f. 01.08.2006 after counting the entire service rendered by Puran Chand in HSMITC department.

Upon notice, written statement on behalf of respondent Nos. 1 to 3 has been filed, wherein it has been stated that husband of the petitioner expired on 30.07.2011 and in the absence of any application for claiming benefit under Ex-gratia Policy, 2006, she had not been granted any such benefit. It has been further stated that husband of the petitioner was appointed as a Class-IV employee vide order dated 03.01.2007 and was posted at ESI Hospital, NH-3, Faridabad on 10.01.2007. He had opted for

CHC Kheri Kalan vide order dated 08.05.2008 and was paid salary upto June, 2009 by SMO, CHC, Kheri Kalan. He applied for leave from 12.01.2009 to 31.01.2009 on medical ground; earned leave from 24.04.2009 to 20.05.2009 and E.O.L. From 21.05.2009 to 01.06.2009, which was sanctioned by the competent authorities. However, after 02.06.2009, neither he joined his duties nor gave any information to the SMO, CHC Kheri Kalan. Details of the payments made to the petitioner have been given in the affidavit dated 23.03.2013 filed by the Civil Surgeon, Faridabad.

Further, in a separate affidavit dated 08.11.2013 filed by the Civil Surgeon, Faridabad, it has been stated that no leave encashment and leave salary was payable to the family/deceased employee as no leave of any kind was due at the time of his death. After sanction of earned leave from 24.04.2009 to 20.05.2009 and E.O.L. from 21.05.2009 to 01.06.2009, he did not report for duty 02.06.2009. Hence, he is not entitled for salary for the period from 02.06.2009 to 30.07.2011. Prior to joining this department on 10.01.2007, the deceased was serving with HSMITC, where he had already received the entire benefits. After 10.01.2007, no NPS contribution was deducted from the salary of deceased as he had not opted for New Pension Scheme, 2006 (NPS). In compliance of the order dated 29.09.2014 passed by this Court, Civil Surgeon, Faridabad has passed the order dated 07.11.2014 (Annexure R-1), vide which, Puran Chand, deceased husband of the petitioner has been sanctioned extraordinary leave without medical certificate w.e.f. 02.06.2009 to 29.07.2011 under Rule 8.121 read with Rule 8.137 of Punjab Civil Services Rules, Volume 1, Part-I. This period will not count for any pensionary benefits and will be treated as willful absence from duty for all intents and purposes.

In the present case, now the dispute is restricted to the period from 1978 to 30.06.2006 i.e. when Puran Chand had served in HSIMTC and thereafter, he was appointed as Class-IV on 10.01.2007. The Director General, Health Services, Haryana has filed an affidavit dated 03.03.2016. Along with this affidavit, a policy dated 21.06.2006 has been placed on record as Annexure R-2/1. This policy was made to adjust the retrenched employees of Boards/Corporations/Public Sector Undertakings, Cooperative Federations etc. during the period from 01.03.2000 to 01.03.2005. One of the conditions i.e. condition No.8 (which is relevant) in the said policy reads as under:-

“8. The adjustment would be subject to the submission by the retrenched employee of an affidavit declaring that the adjustment so provided would be considered as a fresh appointment and he/she would not claim benefit of past service for the period prior to retrenchment or for the period he/she remained out of service as a result of retrenchment in any manner.”

The aforesaid policy was in supersession to the earlier policy. Husband of the petitioner was appointed as Class-IV employee vide order dated 03.01.2007.

Learned counsel for the petitioner has referred to the judgment dated 14.01.2016 passed by this Court in **Suresh Chand and others Vs. State of Haryana and others**, CWP No.3792 of 2012. However, this judgment is not applicable to the facts of the present case, as in that case, reference has been made to the policy instructions dated 07.01.2002, wherein opportunity has been provided to all the employees to count their previous service rendered with the Boards/Corporations/State Government Undertakings in their present Departments for the purpose of pension. This condition is absent in the policy dated 21.06.2006 (Annexure R-2/1).

Moreover, as per the affidavit dated 23.03.2013 filed by the Civil Surgeon, Faridabad, payments of GIS, Financial Assistance and Ex-gratia have already been made to the petitioner, which were due to her as per relevant rules. Now nothing is due and payable to the petitioner.

In view of the above, no further orders are required to be passed in this petition.

Dismissed.

13.06.2016
ajp

(RITU BAHRI)
JUDGE