

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21783 of 2015
Decided on : 15.02.2016

Prem Kaur

... Petitioner

Versus

Punjab State Power Corporation Ltd. & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.S.S.Kamboj, Advocate, for the petitioner.

G.S. Sandhawalia , J. (Oral)

The petitioner challenges the order dated 25.05.2015 (Annexure P12) whereby the respondents have rejected the request of the petitioner for grant of family pension along with arrears, on account of the non-regularization of the services of her husband.

The reasoning given to deny the said relief is that the husband of the petitioner, Late Chet Singh was engaged on work-charge basis and he was never appointed on a temporary basis or ad hoc basis against any sanctioned post. His services were not sponsored by the Employment Exchange and he was not working against any sanctioned post. It was also noticed that he died on 28.08.2001 and his services were not regularized till then and it was, thereafter, the representation had been made on 28.10.2013 (Annexure P9) to claim the benefit of family pension. Accordingly, taking into account the fact that the petitioner was only entitled to family pension from the Employees Provident Fund Organization under the Employees Provident Fund Family Pension Scheme,

1995, as per the policy in vogue, the relief was denied. It was further noticed that a sum of Rs.3 lacs on account of solatium, Rs.33,833/- on account of gratuity and Rs.53,619/- on account of EPF being Workcharge T-Mate, had been paid and nothing was due.

The reasoning given by the respondents-Authority is in consonance with the judgment of the Full Bench in **Lakha Singh Vs. State of Punjab & others 2016 (1) Service Cases Today 179**. The issue in the said case was also as to whether family pension can be granted to the family of the work-charge employee. After taking into consideration the Punjab Civil Services Rules, the Full Bench had come to the conclusion that if the services were not regularized, the work-charged employees were not entitled for pension and similarly, the legal heirs of the deceased employee could not get pension. It was further noticed that the work-charge employees subscribe to the Employees' Provident Fund Scheme, 1952 framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and are governed by a different statute. Relevant portion reads as under:

“Thus, we find that a work-charged employee is not entitled to be regularized by creating posts for him and that without regularization, a work charged employee would not be entitled to pension or his legal heirs, the family pension.

A work-charged employee subscribes to the Employees' Provident Fund Scheme, 1952 framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Since the engagement of the work-

charged employees is governed by a different Statute i.e. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the petitioner cannot claim the benefit of a regular employee unless there is a regular post available and is regularized as per the policy decision of the State Government.

Consequently, we hold that the work-charged employee cannot get pension unless his or her services were regularized. Similarly, the legal heirs of a deceased also cannot get family pension unless the services of the work-charged employee were regularized."

As noticed above, it is not disputed that the petitioner's husband, who was initially appointed on 28.02.1989, as a Work-Charge Majdoor and he continued as such till the date of his death on 28.08.2001. On account of his not being regularized, the relief has been denied to him. A finding has also been recorded that for the purpose of regularization, the deceased-employee had only 2371 days of service against 2961 days requirement and therefore, the benefit of the policy of regularization had also been denied. Admittedly, even if regularization is to be granted, it is to be done as per the terms of the policy and on the basis of the seniority.

In such circumstances, no fault can be found in the order impugned. Resultantly, finding no merit in the present writ petition, the same is dismissed in limine.

FEBRUARY 15, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE