

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

CWP No. 22636 of 2014

DATE OF DECISION :- January 28, 2016

Rajni Devi W/o Late Sh. Prahlad Singh

...Petitioner

Versus

Central Administrative Tribunal, Chandigarh Bench and others.

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Karnail Singh, Advocate for the petitioner.

Ms. Abha Rathore, Advocate for respondent no.2.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? **Yes**

M.JEYAPPAUL, J.

1. The Writ Petitioner Rajni Devi aggrieved by the rejection of her plea for grant of family pension and all consequential benefits in the aftermath of death of her husband Prahlad Singh, who served as Painter Semi-Skilled has come forward with the present Writ Petition.

2. Prahlad Singh, the husband of the Writ Petitioner was appointed as a casual labourer on 16.12.1971. He was granted

temporary status on 12.5.1973. He was appointed as a Khalasi on 20.10.1976. He was promoted as Helper Khalasi on 8.1.1978. He was lastly promoted to the post of Painter Semi-Skilled after he cleared the qualifying trade test on 12.10.1980. He died in harness on 9.2.1988.

3. It is contended by the Writ Petitioner that her husband served as a regularized Khalasi right from 20.10.1976. He was promoted to the post of Helper Khalasi and thereafter to the post of Painter Semi-Skilled after qualifying the trade test. Therefore, it is contended that the entry made in the service book that the Writ Petitioner was not entitled to family pension as her husband who was serving as a Painter Semi-Skilled was unscreened up to his death be struck off. It is also pleaded that inasmuch as he had served as a regular employee after getting all promotions, the Writ Petitioner is entitled to family pension and other consequential benefits on the demise of her husband.

4. The respondents set up a plea that Prahlad Singh was appointed as a casual labour. Though he was granted temporary status, the same cannot be construed as promotion as projected by the Writ Petitioner. He was put to work as Painter on local arrangement. Mere passing of trade test does not invite regularization. Grant of pension would accrue only on regularization of services/successful screening of the employee concerned. Therefore, it was contended by the contesting respondents that the Writ Petitioner is not entitled to family pension and other benefits,

inasmuch as the service of her husband was not regularized as per the decision of the screening committee.

5. The Tribunal elaborately referred to paragraph 15 of the Establishment Rules in the background of the service records of Prahlad Singh and held that Prahlad Singh was not a regular employee who had undergone the screening process as per the Rules and, therefore, the Writ Petitioner was not entitled to family pension and other consequential benefits.

6. During the course of hearing of this matter, we requisitioned the service record of Prahlad Singh. It is found that the respondents have maintained record of service from 16.12.1971 of Prahlad Singh as casual labour separately and maintained a full fledged service book after he was appointed on 20.10.1976 as Khalasi unskilled. On scrutiny of his service records produced before us, we found that Prahlad Singh was originally appointed on 16.12.1971 as Khalasi unskilled. Admittedly, an appointment order was issued to Prahlad Singh on 16.12.1971. At the time of appointing him as Khalasi unskilled, of course, the respondents had obtained a declaration from Prahlad Singh in the month of September, 1976 to the effect that he accepted the post of Khalasi in the revised scale of his pay 196-232 as a temporary measure on local arrangement pending selection by the screening committee. He had also undertaken to qualify for the selection, the failure of which would result in termination. The service records disclosed that he was promoted as a Painter Hand Brush after he passed trade test

conducted for Painter Hand Brush.

7. It is relevant, in this context, to refer to para 15 of the Establishment Rules which reads as follows:-

“15. Promotion to skilled posts:- Casual labour may be promoted to semi-skilled and skilled post without being first selected as class IV staff. (R.B. No. E(NG) 64 CL/51 of 1-2-65). Casual labour promoted to skilled or highly skilled posts or posted in such posts against casual vacancies either in workshops or elsewhere may be absorbed in regular vacancies in skilled grades, after passing the requisite trade tests to the extent of 25% of the vacancies reserved for departmental promotees. (R.B. No. E(NG) 65 CL/4 of 19-7-65)”

8. Though Prahlad Singh was appointed as Khalasi unskilled w.e.f. 20.10.1976 on condition that he should qualify the process of selection by the Screening Committee, the above Rule does not contemplate selection by the Screening Committee for regularization of service. In fact the above Rule postulates that an employee has to pass the requisite trade test to get himself absorbed against a regular vacancy.

9. Learned counsel appearing for the petitioner vehemently submitted that the Service Book which was separately maintained for Prahlad Singh after he was appointed on 20.10.1976 does not even distantly refer to the fact that he was appointed as a casual labourer. It is his further submission that Prahlad Singh was promoted only after he passed the trade test conducted. Inasmuch as he was already promoted on clearing the trade test, the casual labour status

he acquired on his original appointment on 16.12.1971 vanished. Therefore, it is his submission that the respondents have unduly denied the family pension and the consequential benefits by incorporating an unjustifiable remark that Prahlad Singh was an unscreened casual employee.

10. Rebutting the above arguments submitted by the Writ Petitioner, learned counsel appearing for the contesting respondent submitted that the service record clearly indicates that Prahlad Singh was appointed as a Khalasi unskilled only as a temporary measure on local arrangement. The above appointment was also subject to qualifying the selection by the screening committee. It is her submission that Prahlad Singh was appointed only as a casual labourer and his promotion also was purely temporary. Inasmuch as there was no selection by the Screening Committee, the service of Prahlad Singh cannot be construed as a regular service, it is submitted.

11. It is found that a separate record of service is being maintained for casual labourers. Parhlad Singh has served as a casual labourer from 16.12.1971 till he was appointed on 20.10.1976 as Khalasi unskilled. Thereafter, a regular service record was maintained by the official respondents. It is true that he was appointed as a Khalasi unskilled on receipt of his option to accept the post of Khalasi as a temporary measure on local arrangement pending selection by the screening committee. He was promoted to the post of Painter Hand Brush after he passed the trade test

conducted by the respondents. Continuance of Parhlad Singh on the post of Khalasi unskilled was subject to the selection by the screening test but once he was promoted to the post of Painter Hand Brush after passing the trade test, the question of clearing the process undertaken by the Screening Committee does not arise at all.

12. Further, in our view, the respondents having promoted Parhlad Singh to the post of Painter Hand Brush denied such a factum and come out with a plea in the written statement before the Tribunal that Parhlad Singh was given only temporary status which did not amount to promotion as claimed by the Writ Petitioner. The notings found in the service records of Parhlad Singh completely belie such a stand taken by the contesting respondents. Not only was he given temporary status but was also promoted after he cleared the required trade test to the post of Painter Hand Brush. We also noted that the regular service records of Parhlad Singh maintained by the official respondents did not refer to the status of Parhlad Singh who happened to occupy various positions namely Khalasi unskilled, Helper Khalasi and Painter Hand Brush as a casual labourer. Further, it is totally unjustifiable on the part of the official respondents to deny family pension on the ground that Parhlad Singh was unscreened up to his death, in spite of the fact that there was no necessity for him to pass through the selection process of the screening committee for continuance of his post as Khalasi unskilled as he had been promoted to the next cadre namely

Painter Hand Brush after he passed the trade test meant for the said post.

13. In view of the above, we are of the considered view that the official respondents had erred in recording in the service records of Parhlad Singh that he was unscreened and, therefore, his family members were not entitled to family pension. Such an unwarranted and unjustifiable observation made by the official respondents in the service record of Parhlad Singh is ordered to be struck off and it is directed that the Writ Petitioner be granted family pension and other consequential service benefits of Parhlad Singh (her husband) with interest at the rate of 8% per annum as per the Pension Rules in vogue within three months from the date of this order. As a consequence, the impugned order passed by the Tribunal stands set aside and the Writ Petition is allowed.

**(M. JEYAPPAUL)
JUDGE**

**(RAJ MOHAN SINGH)
JUDGE**

January 28, 2016

p.singh