

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.2356 of 2016 (O&M)

Date of Decision: December 05, 2016

Haryana Vidyut Prasaran Nigam Limited and othersAppellants

versus

Savitri DeviRespondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU.**

Present: Mr.Puneet Jindal, Senior Advocate with
Ms.Sakshi, Advocate, for the appellants.

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1. Whether Reporters of Local papers 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?

Surya Kant, J. (Oral)

This letters patent appeal is directed against the order dated 11.03.2016 of the learned Single Judge vide which the writ petition filed by the respondent for the grant of family pension has been allowed with a direction that firstly services of deceased-husband of the respondent be regularized and thereafter she be granted the family pension from the due date.

[2] The undisputed facts are that the deceased-husband of the respondent was appointed on work-charge basis in the appellant-Corporation on 01.07.1974. He unfortunately passed away while in service

on 11.05.1978. The respondent was denied the family pension on the premise that her husband was not working on regular basis when he unfortunately died while in service. It is in this backdrop that the primary question that arose for consideration before the learned Single Judge was whether the deceased-employee was entitled to regularization of his services? This question has been answered in favour of the respondent on finding that one junior to the deceased-employee, namely, Harish Chander who was also appointed on work-charge basis, was brought on regular establishment after two years of his appointment, i.e., in the year 1977. At that point of time, the claim of deceased-employee was not considered at all. Learned Single Judge has thus held and rightly so that the deceased-employee too was entitled to regularization of services from the said date.

[3] Having held so, learned Single Judge has further held that husband of the respondent be taken to have died as a regular employee and the very basis on which family pension was denied to the respondent thus is unsustainable.

[4] We have heard learned counsel for the appellants.

[5] Without taking any specific plea before the learned Single Judge that Harish Chander was not junior to the deceased-husband of the respondent, a totally new factual plea is sought to be raised in the appeal that the respondent in her writ petition did not disclose the designation of Harish Chander or the fact that he was working in a different circle/division. Since the appellants did not take such a plea before the learned Single Judge rather conceded the fact that Harish Chander, junior to the deceased-employee was made regular from a date on which the deceased-husband of the respondent was alive, we decline to entertain this plea and

dismiss the appeal though with liberty to the appellants to move an appropriate application before the learned Single Judge, if so advised.

Ordered accordingly.

[SURYA KANT]
JUDGE

December 05, 2016
mohinder

[HARINDER SINGH SIDHU]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No

CM No.4894 of 2016 in
LPA No.2356 of 2016

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Haryana Vidyut Prasaran Nigam Limited and others
versus
Savitri Devi

Present : Mr.Puneet Jindal, Senior Advocate with
Ms.Sakshi, Advocate,
for the applicant-appellants.

* * *

For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and 171 days' delay in filing the
appeal is condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

December 05, 2016
mohinder

(HARINDER SINGH SIDHU)
JUDGE