

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA No. 4724 of 2012(O&M)

Date of decision: 27.09.2016

Salochana and others

.... Appellants

Versus

Union of India and another

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.J.S.Cooner, Advocate for the appellants.

Mr. G.S.Bal, Sr. Advocate with
Mr. ADS Bal, Advocate for the respondents.

P.B. Bajanthri, J. (Oral)

The appellants are legal representatives of Late Sh.Kirat Singh. They have questioned the validity of the order of the trial court dated 09.05.2011 and order of the appellate court dated 23.04.2012. The deceased Sh. Kirat Singh was appointed as Gangman on *ad hoc* basis. For the purpose of regularization the screening committee demanded date of birth proof of the deceased Sh. Kirat Singh on 20.08.1989. The screening of regularization of Gangman was completed on 06.02.1990 for want of date of birth of the deceased Kirat Singh. His name was not reflected in the screening order.

2. When things stood thus, on 19.04.1992 while he was in service

as a Gangman on *ad hoc* basis, died. The appellants filed a suit for grant of family pension. The same was declined by both the trial court and the appellate Court on the score that deceased Sh.Kirat Singh's services were not regularized for the post of Gangman for want of proof of date of birth. Therefore, in the absence of status of the deceased employee as a regular employee, the appellants are not entitled for family pension. Thus, the appellants are aggrieved by the orders of the trial court and appellate court presented this appeal.

3. Short question for consideration in the present appeal is whether the appellants are entitled to family pension in the absence of giving status of regular employee to the deceased Sh. Kirat Singh or not. Perusal of the records, it is revealed that before deceased Kirat Singh was appointed as a Gangmen on *ad hoc* basis on 05.10.1988, he had furnished an affidavit on 20.05.1988 indicating his date of birth as 02.02.1965. Gangman post is a Class IV post. He may be illiterate. Therefore, he could not produce proof of the date of birth as and when demanded by the respondents for the purpose of screening to bring *ad hoc* Gangman on permanent basis. Therefore, the trial Court and appellate Court erred in not considering the affidavit given by the deceased employee dated 20.05.1988 in which date of birth of the deceased employee has been shown as 02.02.1965. Thus, both the courts below have erred in holding that appellants are not entitled for family pension.

4. In view of the above facts and circumstances, the respondents are directed to regularize services of the deceased employee from the date of juniors' regularization on 06.02.1990 and to release consequential benefits in accordance with rules/regulations along with interest @ 9% per annum to

the legal representatives of Late Sh.Kirat Singh-appellants within a period of 4 months from today.

(P.B.BAJANTHRI)
JUDGE

Yes/No