

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10546-2010 (O&M)

Date of Decision:-12.09.2017.

Somti Devi since deceased through her L.Rs.

.....Petitioner

Versus

Presiding Officer, Labour Court, Ambala and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. J.S. Khattar, Advocate for
Mr. Deepak Sharma, Advocate for the petitioner.

Mr. Siddharth Sanwaria, DAG, Haryana.

Dr. Dharminder Ranga, MO, CHC, Raipur Rani
in person.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, petitioner has challenged the validity of the award passed by the Labour Court dated 02.01.2009 (Annexure P-1).

Central Government evolved a scheme with reference to extending the infrastructure of Maintenance of National Family Welfare Programme in the year 1980. The scheme was adopted by the State-respondents on the directions of the Central Government. Thus, petitioner was appointed under the scheme in the month of December, 1981 in the Primary Health Centre Khatuali under the administrative control of CHC, Raipur Rani. In the month of August, 2005, deceased workman's services were terminated orally. Thus, she has raised an industrial dispute. Labour

Court proceeded to pass award against the deceased-workman on the score that petitioner was appointed on honorarium basis under the scheme and she has no right. Further it was observed that from September, 2005 to August, 2005, she has not completed 240 days. Learned counsel for the petitioner submitted that workman had worked from 1981 to 2005 which is suffice to establish that petitioner has worked for 240 days in a year from 1981 to 2004. The Labour Court has erred in taking into consideration with reference to the period from September, 2005 to August, 2005 in para 10 of the award to contend that workman has not worked for 240 days. Even today scheme is being operated by the State Government. Therefore, question of terminating the services of the petitioner was not warranted in the year 2005. Hence, the Labour Court has erred in appreciating the fact that workman had rendered service from 1981 to 2005 under the Central Government scheme which was adopted by the State Government.

Per contra, learned counsel for the respondents while resisting the claim of the workman submitted that workman was appointed only on honorarium basis and she has been paid from time to time with reference to the amendment of the scheme in respect of implementation of the claim with reference to existing norms relating to payments for various programmes including the payments made to the voluntary workers. As on 16.5.2002, voluntary workers like workman were paid a sum of ₹ 3,200/- per month as honorarium. Since the workman has not worked against any sanctioned post, therefore, question of reinstatement and other benefits do not arise.

Heard learned counsel for the parties.

Undisputedly, Central Government evolved a scheme relating

to implementation of National Health Programme. The same was adopted

by the State Government in which deceased workman was appointed as voluntary worker and she was paid with reference to the scheme and it is learnt that initial honorarium is ₹ 50/- and it was aroused upto ₹ 3200/- on 16.5.2002. Therefore, as on the date of deceased workman oral termination, she was being paid a sum of ₹ 32,00/- as honorarium. Undisputedly claim is still existing even to this day. Thus, question of orally terminating the workman was not warranted. If an employee is appointed under a particular scheme, he or she has a right to continue till abolition of the scheme. Such principle is applicable in the present case for the reasons that even today, the scheme is existing. Therefore, oral termination of the deceased workman in the year 2005 is contrary to the above principle. Learned counsel for the deceased workman pointed out that workman has died during pendency of this litigation and her legal representatives have been brought on record. Therefore, question of reinstating the workman do not arise. Hence, Labour Court award dated 2.1.2009 is set aside. The respondents are liable to pay a compensation of ₹ 6,00,000/- to the legal heirs of deceased workman. Compensation shall be paid within a period of 3 months from today, failing which the legal representatives of the deceased workman are entitled to interest @ 6% per annum from today.

Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

September 12, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.