

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

**C.M.No.13688 of 2016 in/and
CWP No.12160 of 2013 (O&M)**

Date of Decision : 27th January, 2017

Navita Gupta

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Rajbir Sehrawat, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana
for the respondent(s)-State.

Mr. Karan Nehra, Advocate
for respondent No.3.

Mr. J.N.Gupta, applicant in person.

AJAY TEWARI, J. (Oral)

C.M.No.13688 of 2016

This is an application for impleading the applicant as party-respondent.

The averments made in the application are that actually non-applicant/petitioner had caused death of her husband (brother of the applicant) and consequently she is not entitled to maintain a petition claiming his retiral/death benefits and she should not be held entitle to take anything from those benefits.

**C.M.No.13688 of 2016 in/and
CWP No.12160 of 2013 (O&M)**

-2-

Learned counsel for the non-applicant/petitioner, on the other hand, has argued that once the applicant is not in a position to deny that the non-applicant/petitioner is the legally wedded wife of the deceased and that now more than two years have elapsed since the death and except the complaints filed by the applicant, nothing is pending against the non-applicant/petitioner, the applicant is neither necessary nor a proper party.

In my opinion, the arguments of the learned counsel for the non-applicant/petitioner have to prevail. It is not disputed that the police had found the complaint to be not based on facts and even till date no summons have been issued on any complaint which may have been filed against the non-applicant/petitioner.

In these circumstances, I regret my inability to consider that the applicant is either a necessary or a proper party.

Consequently, the instant application stands dismissed.

CWP No.12160 of 2013

The petitioner has preferred this petition for issuance of direction to respondents to continue the petitioner in service upto the age of 60 years being physically handicapped as per the instructions of the State Government dated 31.01.2006 and in accordance with the provisions of the persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 with all consequential benefits of pay, salary and arrears of salary etc. and further to pay the full salary of the husband of the petitioner from the date he was admitted in PGI Chandigarh.

In this petition, all the other reliefs have been granted except the claim of the petitioner for leave encashment. Originally, it was the case

C.M.No.13688 of 2016 in/and

CWP No.12160 of 2013 (O&M) -3-

of respondent No.3 that the period of leave before the submission of medical certificate could not be treated as medical leave. However, as per affidavit dated 05.11.2016, respondent No.3 has stated that he has no objection if respondent Nos.1 and 2 treated that leave as medical leave which was taken prior to the submission of the medical certificate.

On the other hand, the stand of respondent Nos.1 and 2 is that the State can only treat the leave of the husband of the petitioner which had been taken prior to the submission of the medical certificate as medical leave if respondent No.3 certifies it to be medical leave.

In view of the affidavit filed by respondent No.3, it can now have no objection to this course of action.

In these circumstances, respondent No.3 is directed to certify that the leave which the husband of the petitioner took before the submission of this medical certificate as 'Medical Leave'.

The instant petition stands disposed of accordingly.

27th January, 2017
mamta

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No