

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

**CWP No.1011 of 2016 (O&M)**

**Date of Decision:06.09.2017**

Smt. Sukhpati Devi

... Petitioner

Vs.

State of Haryana and others

... Respondents

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

Present : Mr. Atul Yadav, Advocate for the petitioner.

Mr. J.S. Bedi, Addl. A.G. Haryana.

Mr. Devinder Sharma, Advocate for respondent No.2.

**P.B. BAJANTHRI J. (Oral)**

In the instant petition, petitioner has assailed the communication dated 24.6.2015 by which petitioner's claim which was due to the deceased Shri Balwan Singh the then Clerk of respondent-the Haryana State Cooperative Agriculture and Rural Development Bank Limited, Panchkula (for short "respondent-Bank") has been rejected. The reason for rejection of the petitioner's claim that deceased employee's services were dismissed on 2.5.1995 which was the subject matter of Industrial Dispute. Award of the Labour Court dated 6.3.2002 was in favour of the deceased Shri Balwan Singh. However, deceased Shri Balwan Singh was missing from 10.1.2001. The petitioner was under the hope that he will return. Petitioner did not register police complaint immediately on the advise of well wishers. Registered complaint in the year 2007. Thereafter, petitioner filed a suit for declaration of civil death of Balwan Singh. Suit was rejected. Consequently, appeal was filed before the District Court on 1.3.2014. District Court passed an order declaring that Shri Balwan Singh is deemed to have died with reference to the fact that he is missing for the last

7 years. Faced with this, the petitioner approached the respondent-Bank claiming monetary dues on behalf of late Shri Balwan Singh. The same has been rejected vide communication dated 24.6.2015. Hence, the present petition.

Learned counsel for the petitioner submitted that since Shri Balwan Singh was missing from 10.1.2001, therefore, question of implementation of award dated 6.3.2002 do not arise. Moreover, in view of the order passed in Civil Appeal No.108 of 2014 on 1.3.2014 declaring that Shri Balwan Singh is deemed to have died, cause of action accrues to the petitioner after 1.3.2014. Whereas the petitioner has submitted representation on 14.11.2013. In view of these facts and circumstances, rejecting the claim of the petitioner vide communication dated 24.6.2015 is contrary to the facts. Thus, petitioner is entitled to monetary benefits with reference to the date of entry into service of Shri Balwan Singh as if his service were not terminated on 2.5.1995 and he deemed to be remained on duty upto 6.3.2002.

Per contra, learned counsel for respondent No.2 while resisting the petitioner's claim submitted that there is an inordinate delay in asking to implement the award dated 6.3.2002 by the petitioner. The petitioner has submitted representation only on 15.11.2013. Therefore, there is no infirmity in impugned communication dated 24.6.2015.

Heard learned counsel for the parties.

Perusal of Annexure P-6 communication dated 24.6.2015, the respondents have committed error since the petitioner had not asked for implementing of award dated 6.3.2002. Award is relating to the reinstatement of the deceased employee. When the deceased employee was

missing from 10.1.2001 and the Civil Court has declared that he is deemed to be died, therefore, question of implementing the award dated 6.3.2002 do not arise. Respondents have not applied their mind to the extent that petitioner is legal heir of the deceased employee Shri Balwan Singh, therefore, petitioner is entitled to monetary benefits which are due to late Shri Balwan Singh as if he was in service upto 6.3.2002. Since order of dismissal dated 2.5.1995 has been set aside, therefore, impugned communication dated 24.6.2015 is set aside. Concerned respondent is hereby directed to calculate dues of deceased Shri Balwan Singh from the date of entry into service till passing of award dated 6.3.2002 as if he was in service and extend all monetary benefits alongwith interest @ 6% per annum from 14.11.2013 the date on which petitioner submitted representation within a period of four months from today.

Petition stands allowed accordingly.

06.09.2017  
rajeev

**(P.B. Bajanthri)**  
**Judge**

**Whether speaking/reasoned**                      **Yes/No**

**Whether reportable**                              **Yes/No**