

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

CWP No.19931 OF 2014
DATE OF DECISION : 20th JANUARY, 2017

Bharpur Singh

.... Petitioner

Versus

State of Punjab & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

* * * *

Present : Mr. Mukand Gupta, Advocate for the petitioner.
 Mr. Nikhil Chopra, Deputy Advocate General, Punjab.

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KULDIP SINGH, J. (ORAL)

1. Seeta Rani wife of the petitioner was initially appointed as Clerk on 06.10.1995 in the office of the Deputy Commissioner, Mansa for 89 days and thereafter she continued to work on adhoc basis as she was granted extension in services from time to time. It appears that she continued her services until her services were terminated by Deputy Commissioner, Mansa on 13.11.1997 on the ground of misconduct. It is also come out that Seeta Rani filed Civil Suit No.413 dated 20.10.1999 before Civil Judge (Senior Division), Faridkot, against her termination, which was dismissed on 21.05.2001. Civil Appeal No.294 dated 15.06.2001 filed by Seeta Rani against the suit was also dismissed by learned District Judge, Faridkot on 04.02.2003. Thereafter, Seeta Rani approached this Court by way of regular second appeal. In the meanwhile, it comes out that the Commissioner, Faridkot Division,

Faridkot vide its order dated 14.11.2003 (Annexure P-2) while hearing the matter on the administrative side reinstated Seeta Rani in services.

The relevant extract of the order is reproduced as under:

“Keeping in view the above circumstances and legal position the impugned order of Deputy Commissioner, Mansa issued vide his order No.113/EA date 13.11.1997 is hereby set aside and the Petitioner is reinstated with all consequential benefits with immediate effect and her period of absence from duty during the above period will be treated as duty period for all the purposes as per provisions given in Rule 7.3(2) of CSR Vol. I Part I. Copies of this order be sent to Deputy Commissioner, Mansa and the petitioner for information and necessary action.”

2. Consequently, Seeta Rani was reinstated in services by the Deputy Commissioner, Mansa vide his order dated 18.12.2003 (Annexure P-3) and her services were regularized vide order dated 24.05.2004 (Annexure P-4). Unfortunately, Seeta Rani died on 03.05.2007. The petitioner who is husband of the deceased claims that only GPF and GIS was released and family pension, leave encashment, gratuity and exgratia has not been paid to him. The prayer is for release of the said benefits.

3. In the reply, the State has not disputed the fact that the deceased was employed for 89 days. Her termination, result of the Civil Suit and order passed by the Commissioner and her regularization in

services, were also not denied. The plea has been taken that the Local Audit Party raised the objection that salary for the period February, 2003 to January, 2004 amounting to Rs.3.45 lakh has been wrongly paid to Seeta Rani. It is apparent that for these reasons the said benefits has not been released. It also comes out that the Deputy Commissioner addressed a communication dated 22.04.2009 (Annexure P-7) to the Financial Commissioner (Revenue), seeking guidance in the matter. However, vide letter dated 25.08.2009 (Annexure P-8) the Financial Commissioner left it to the Deputy Commissioner to take the decision in the matter.

4. I have heard learned counsel for the parties and perused the case file with their assistance.

5. If the factual position is examined, it comes out that the fact remains that Seeta Rani was reinstated by the Commissioner, Faridkot, exercising the power on the administrative side. Accordingly, she was reinstated and even her services were regularized. She died on 03.05.2007 in harness. I am of the view that now the question arises that since she was reinstated with the direction that the period of absence shall be treated as duty period and assuming that the pay for the said period has been wrongly released, the said pay cannot be recovered from the deceased employee in view of the ***State of Punjab versus Rafiq Masih, (2014) 8 SCC 883***. Therefore, the objection of the Local Audit Report is no more valid and no recovery can be effected from the deceased employee or her legal heirs. It being so, the position becomes crystal clear that the petitioner, being legal heir, is entitled to the family pension in terms of Punjab Civil Services Rules 6.17 Volume II along with leave

encashment, gratuity and exgratia payment in terms Punjab Civil Services Rules.

6. Accordingly, the respondents are directed to release the family pension, leave encashment, exgratia and gratuity along with all retiral benefits to the legal heir of Seeta Rani in terms of the Punjab Civil Service Rules within two months from the date of receipt of certified copy of this order along with interest @ 9% p.a. on the delayed payment starting three months from the date of death of Seeta Rani i.e. 03.05.2007 till the date of payment.

20th JANUARY, 2017
‘raj’

(KULDIP SINGH)
JUDGE

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