

In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 4274 of 2016**  
**Date of Decision: May 15, 2017**

*Santosh Kumari*

*... Petitioner*

*Versus*

*State of Haryana and others*

*... Respondents*

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

Present: Mr. Deepak Girotra, Advocate,  
for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

**P.B. Bajanthri, J. (Oral)**

1. Deceased Sh. Satish Kumar, who was working as Clerk in the office of Government Secondary School, Talao, Jhajjar, was placed under suspension on 12.05.2011 on certain allegations relating to absent from duty. Before order of inquiry and so also revoking order of suspension, Sh. Satish Kumar died on 21.05.2013. In view of above facts and circumstances, Director, Secondary Education, Haryana passed an order on 24.09.2013 that deceased employee absented for the period from 21.12.2010 to 11.05.2011 as leave of kind due, suspension period from 12.05.2011 to 20.05.2013 as duty period, however, suspension period was considered as duty period only for the purpose of pension. In other words, salary/pay attached to the post for the intervening period from 12.05.2011 to 20.05.2013 has been denied. Thus, present petition in questioning the order dated 24.09.2013 (Annexure P/1).

2. Learned counsel for the petitioner submitted that deceased employee was not subjected to disciplinary proceedings so as to regulate the suspension period as suspension only for the purpose of extending monetary benefits. Moreover, while he was on suspension, he died. Consequently, order of suspension abates. Therefore, petitioner, legal representative of deceased Satish Kumar, is entitled for arrears of pay during the intervening suspension period from 12.05.2011 to 20.05.2013. It was also submitted that no inquiry has been held so as to regulate the period of suspension only.

3. Per contra, learned State counsel submitted that deceased employee was placed under suspension for remaining unauthorized absent, therefore, respondents have rightly restricted the suspension period as duty towards pension. Therefore, there is no infirmity.

4. Heard learned counsel for the parties.

5. Regulation of suspension period in the present case is not supported by any provision of law so as to count the suspension period only for the purpose of pension. Moreover, in the present case, deceased Sh. Satish Kumar died while he was on suspension. Thus, order of suspension is abated. Consequently, legal heirs are entitled for monetary benefits as if deceased Satish Kumar, Clerk is in office, since there is no finality in respect of allegation in the disciplinary proceedings so as to treat the suspension period as duty only so as to deny financial benefits. Thus, Annexure P/1 dated 24.09.2013 is not supported by any provision of law. Moreover, order of suspension abated, while it was in force on 21.05.2013. Therefore, legal representative of deceased are entitled for monetary benefits. Hence, order dated 24.09.2013 (Annexure P/1) is set aside to the extent of denying monetary benefits like pay/salary during suspension

period. Concerned respondent is hereby directed to regulate the suspension period from 12.05.2011 to 20.05.2013 as a duty for all purposes including financial benefits like difference of pay if the subsistence allowance has been paid to the deceased employee during the intervening period from 12.05.2011 to 20.05.2013. If subsistence allowance is not paid, entire pay which was due to the deceased Sh. Satish Kumar be paid to the legal heir/petitioner within a period of three months from today.

6. Accordingly, instant writ petition stands allowed.

**May 15, 2017**  
vkd

**[P.B. Bajanthri]**  
**Judge**

Whether speaking / reasoned : Yes

Whether reportable : No