

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1483 of 2015 (O&M)

Date of Decision: 16.05.2017

State of Punjab & Ors.

... Appellants

VS.

Gurdeep Kaur

... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Rajesh Bhardwaj, Addl. AG Punjab

Mr. SK Arora, Advocate for the respondent

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal is directed against the order dated 10.02.2015 whereby learned Single Judge allowed the writ petition and has directed to re-consider the claim of the respondent for appointment on compassionate grounds and for the release of family pension by treating her deceased husband a 'regular employee'.

(2) The facts are not in dispute. The husband of the respondent late Bhola Singh was appointed as Petrolman in the Department of Water Supply and Sanitation on daily wages w.e.f. 06.12.1990. He continuously served till his unfortunate death on 10.04.2011 while he was still in service.

(3) During the lifetime of Bhola Singh, the Department considered him for regularization of services as per the Government Policy and passed the order dated 24.05.2011 (appended as Annexure R-1 with the affidavit filed by the appellant-State today in Court) whereby his services were ordered to be regularized along with various other daily wagers who had completed 10 years of service upto 30.12.2006. There was, however, a note put up at the end of the above-stated order to the effect that "*the name of the employees,*

from duty due to any reason, their services are not to be regularized". It is contended by the appellants on the strength of the above-stated Note that since the deceased had unfortunately passed away before the order of regularization could be given effect, he cannot be treated to be a regular employee. Such an objection has been repelled by learned Single Judge relying upon a Division Bench judgment of this Court in **LPA No.1539 of 2012 (State of Punjab & Ors. vs. Harjinder Kaur) decided on 05.02.2013** and other connected matters. The Division Bench while referring to the facts of LPA No.1364 of 2012 observed as follows:-

*"Insofar as husband of Baljit Kaur is concerned, his turn had matured on 18.3.2011 for regularization and the case was processed and ultimately order came to be issued on 24.5.2011. However, the only reason for rejecting the case was that in the meantime, he died on 18.5.2011 and therefore, he could not be subjected to medical report and police verification. This cannot be a valid ground for rejecting the case. It is clearly covered by a judgment of this Court in the case of **Smt. Chameli Vs. The State of Haryana and others 1999 (2) R.S.J 688**. Therefore, insofar as this appeal is concerned, it stands rejected."*

(4) Otherwise also, the admitted facts on record reveal that the deceased had served for more than 21 years. He was entitled to regularization of services as per Government policy dated 18.03.2011. The eligibility condition for regularization of services was that a daily wager must have completed 10 years of service on or before 31.12.2006. The deceased

employee admittedly fulfilled those eligibility conditions. The delay in issuing the formal order of regularization was attributable to the ministerial exercise of the appellants and not to the deceased employee. In terms of the Government policy, the status has to be seen as on 31.12.2006 and he was admittedly eligible for regularization on the said date. At best his status could be seen on the date when the Government policy dated 18.03.2011 was issued and on that date also, he was very much alive fulfilling the eligibility condition for regularization of services. Still further, his claim was recommended for regularization on 01.03.2011, namely, the date when he was alive and in service. In this view of the matter, the delay in issuance of order of regularization of services cannot work to the disadvantage of the dependents of the deceased employee. The services of late Bhola Singh therefore shall be deemed to have been regularized as on 01.04.2011. Consequently, he is taken to have died as a regular employee thereby entitling the respondent eligible for appointment on compassionate grounds under the *ex gratia* policy and for grant of family pension.

(5) No case to interfere with the order under appeal is made out.

(6) Dismissed.

(Surya Kant)
Judge

16.05.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No