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

RSA-270-2014 (O&M)

Date of Decision : 17.11.2017

Punjab State Electricity Board, Patiala and Another Appellants

Versus

Trimla Kapoor and others Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Ms. Maninder Kaur, Advocate
for Mr. Suvir Kumar, Advocate
for the appellants.

Mr. H.K. Brinda, Advocate
for the respondent No.1.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the concurrent judgments of the courts below partly decreeing the suit of the respondent No.1 by directing the appellants to commute the pension of husband of the respondent No.1 and to pay her accordingly but rejected her claim to appoint her son on compassionate ground. The respondent No.1 had not filed an appeal regarding this rejection.

The case of the respondent No.1 was that her husband joined service of the appellant-Board on 29.11.1965. By order dated 05.12.2000

he was permitted to retire prematurely on medical grounds. At that time his entire medical record had been submitted before the appellant-Board and it was after consideration of the medical record that he had been permitted to take premature retirement on medical ground. Even at the time when he actually retired he was unwell. Within less than 2 months of retirement he died on 23.01.2001. Prior to that date the husband of the respondent No.1 had applied for commutation of pension and other retiral benefits. On 04.01.2001 the appellant-Board had sanctioned commutation of pension and ultimately it was declined because a fresh medical certificate had not been placed on record. It was in those circumstances that the present suit was filed. The plea of the appellant-Board was that an employee who takes premature retirement on medical ground is not entitled to commute his pension. Both the courts below held that under the rules every employee who had retired had the right to commute the pension and this right could not be taken away only on the ground that a particular employee had taken premature retirement on medical ground.

Counsel for the appellant-Board is not able to show any rule which may suggest otherwise.

In my opinion, the judgment of the courts below regarding the entitlement of respondent No.1 for the benefits of commutation of pension is correct. The basic right is the right to pension. Commutation thereof is an ancillary right and if the right for pension is recognized and accepted, the right to commute that pension cannot be taken away. It would be seen that at the time of seeking retirement the husband of the respondent No.1 had 35 years of service which in any case entitles him to full pension. No other

point has been raised by the counsel for the appellant-Board.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending Civil Misc.
Application, if any, also stands disposed of.

November 17, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No