

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

2068

**CWP-23-2001 (O&M)
Date of decision:12.02.2018**

Kamlesh Devi

...Petitioner

Versus

State of Haryana and others

.... Respondents

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

Present: Mr. Naveen Daryal, Advocate for the petitioner.

None for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the instant petition, petitioner has sought for the direction to the respondents to provide appointment to the petitioner on compassionate ground in place of deceased Sh.Dev Parkash in view of the labour court award dated 09.05.2000 (Annexure P1).

2. Deceased employee was appointed as Chungi Helper on 16.04.1979. His services were terminated on 07.02.1988. He raised an industrial dispute. During pendency of dispute it seems deceased employee Devi Parkash died. Consequently, legal heirs have been brought on record. No doubt deceased employee has made out a case that termination is

illegal. Having regard to the fact that he died during the pendency of the dispute labour court held that petitioner-widow of the deceased employee is entitled for 50% back wages from the date of termination of service till date of the death of the deceased employee i.e. up to 23.09.1990. Learned counsel for the petitioner submitted that once the labour court has held that termination is illegal and 50% back wages has been awarded to the legal heir of the deceased employee consequently deceased employee is deemed to be in service and he is entitled for regularization in terms of the regularization policy. Further petitioner who is legal heir of deceased employee is entitled to compassionate appointment.

3. None appears for the respondents.
4. Heard learned counsel for the parties.
5. Labour court passed the following order:-

“Relief:-

11. In view of my findings on various other issues, legal heir of deceased Dev Parkash i.e. widow Kamlesh Devi is entitled for 50% back wages from the date of termination of services of Dev Parkash till the date of his death i.e. 23.09.1990.”

6. Labour court even though held that termination of the deceased employee is illegal however, order of termination has not been set aside, continuity of service has not been ordered and so also consequential benefits as if the order of termination is not existing in the eye of law. On the other hand what has been granted is only 50% back wages from the date of termination till the date of deceased employee's death i.e. up to

23.09.1990. In this back ground, unless and until order of termination is set aside further in the absence of declaration that deceased employee is deemed to be in service from the date of termination till 23.09.1990 the date on which he died then only a right would arise to the legal heirs for claiming consequential benefits like seeking a declaration that deceased employee is deemed to be regularized from the date of junior's regularization date. In that event only petitioner would get a right to seek a compassionate appointment. In the present case status of the deceased employee has not been declared that he is deemed to be in service. Further there is no declaration or direction to treat the deceased employee deemed to have regularize in the service on par with the juniors. Thus, petitioner has not shown her statutory right so as to seek compassionate appointment as prayed in the present petition. Accordingly, CWP stands dismissed.

12.02.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No