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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15966-2016

Date of Decision : November 19, 2018

Urmila Rani

.... Petitioner.

Versus

State of Punjab and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. P.S. Khurana, Advocate
 for the petitioner.

Mrs. Anju Arora, Addl. A.G. Punjab,
for the respondents.

SHEKHER DHAWAN, J.

Petitioner is widow of Om Parkash, who was working with the respondents, has filed the present writ petition under Articles 226/227 of the Constitution of India for issuance of directions to the respondents to grant family pension to the petitioner as well as other service dues after treating the services of the husband of the petitioner on daily wage basis followed by regularization vide order dated 10.04.2013 alongwith interest at the rate of 18% per annum.

2. Facts relevant for the purpose of decision of this writ petition;
that the deceased husband of the petitioner, Om Parkash was appointed

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as a Langri on 1.4.1996 and was posted at Sub Jail, Fazilka on daily wage basis. His services were regularized by the competent authority vide order dated 10.4.2013 (Annexure P/1). The husband of the petitioner died on 14.09.2013. The pay, arrears accrued after the regularization of services of husband of the petitioner were not paid. No other dues viz. Leave encashment, gratuity etc. have also not been paid to the petitioner nor family pension was awarded to her despite having made several representation. Hence, the present writ petition before this Court.

3. Respondents have taken the plea that as per instructions issued by the State Government, Personnel Department (PP-3 Branch) Endst. No.11/13/2011-4 PP3/1803-1804 dated 21.11.2011, the case of Daily Wages/ Work Charged employees who have 10 years of service on December 2006 were regularized.

4. As per the respondents, the services of Om Parkash were regularized under the New Contributory Pension Scheme with initial scale of their cadre and as such, the petitioner, who is widow of Om Parkash, was not entitled to family pension as well as the other service dues and the present writ petition deserves to be dismissed.

5. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that the husband of the petitioner was appointed as a Langri on 1.4.1996 on daily wages and thereafter, his services were regularized on 10.4.2013. The petitioner has not received the retiral benefits after the death of Om Parkash for the service having been rendered by the

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petitioner as work-charge employee for the period from 1.4.1996 to 10.4.2013.

6. Identical matter was before Hon`ble Division Bench of this Court in **Harbans Lal Vs. The State of Punjab and others, 2012 (3) SCT 362**, wherein this Hon`ble Court observed as under:-

“16. From the above discussion, we have come to the conclusion that the entire daily wage service of the petitioner from 1988 till the date of his regularization is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. service prior to 1.1.2004. The new Re-structured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004, will not be applicable to the petitioner. The amendment made vide Annexure P-2 amending the Punjab Civil Services Rules, cannot be further amended by issuing clarification/instructions dated 30.5.2008 (Annexure P-3). The petitioner will continue to be governed by the GPF Scheme and is held entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Govt. Services prior to 1.1.2004.”

7. Against the aforesaid decision of Hon`ble Division Bench of this Court, the State of Punjab filed Special Leave Petition (Civil) CC 17901/2011 and the same was also dismissed by Hon`ble Apex Court vide order dated 30.7.2012 and as such, the matter has already attained the finality.

8. In the light of the view taken by Hon`ble Division Bench in **Harbans Lal's case (supra)**, which has already attained finality, the petitioner is also entitled to the same relief and the service having been

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rendered by Om Parkash (since deceased) on daily wages as work-charge employee for the period from 1.4.1996 to 10.4.2013 shall be counted for pensionary benefits as applicable to the employees recruited in the State of Punjab prior to 1.1.2004.

9. Resultantly, the present writ petition stands allowed in the above terms. Let the family pension and other service dues as well as arrears be calculated and paid to the petitioner expeditiously, preferably within a period of three months from the date of receipt of copy of this order.

(SHEKHER DHAWAN)
JUDGE

November 19 2018.

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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes