

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 4554 OF 2013
DECIDED ON: JANUARY 16, 2018

SAROJ

.....PETITIONER

VERSUS

MUNICIPAL CORPORATION, CHD
AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Alka Chatrath, Advocate with
Ms. Richa Bansal, Advocate,
for the petitioner.

Mr. Jaivir Chandel, Advocate,
for respondents No.1 and 2.

Ms. Madhu Dayal, Advocate,
for respondent No.3.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, the petitioner has sought issuance of a writ in the nature of mandamus directing the respondents to release the family pension and other retiral benefits after the demise of her husband Kanwar Pal, Safai Karamchari along with interest @ 18% on the family pension benefits.

2. Concededly, Kanwar Pal s/o Shadi Ram (since deceased) joined the office of Medical Officer Health on 04.10.1999 as Safai Sewak on daily wages and was being paid fixed rate prevalent at the time without any deduction. He

was worked as a Daily Wager till 23.06.2005 and w.e.f. 24.06.2005, he joined as Sweeper against a regular post in pursuance of order dated 20.06.2005. However, during his service, he was taken away by the nature on 17.10.2010. None of the benefits which has accrued to the petitioner on account of untimely demise of her husband were paid by the respondents except an amount of Rs.1 lac on account of leave encashment and untimely demise. Some amount was also deducted from the aforesaid amount which were recoverable on account of some loan taken by the deceased.

3. Now, the petitioner has moved the instant petition seeking release of family pension and other benefits. Earlier, aforesaid benefits were declined to the petitioner and the service rendered by the husband of the petitioner as Daily Wager was not being counted towards the pensionary benefits. It is well settled proposition of law and the controversy has been set at rest by the Division Bench of this Court in CWP No. 2371 of 2010, titled as ***“Harbans Lal v. State of Punjab”***, and a large number of similar petitions have also been dealt with and disposed of by this Court. Even, vide letter No. CMC/Estt./SAE-IV/2017/10880, dated 12.10.2017, copy of which has been furnished by learned counsel for the respondent and is taken on record, clearly fortifies the case of the petitioner, according to which, the benefit of service of the employee rendered on daily wages has been allowed to be taken into consideration towards qualifying period for pension and pensionary benefits.

4. Thus, in view of the settled proposition referred to above as well as letter dated 12.10.2017, the daily wages period of the husband of the petitioner after his joining as such in the year 1999 is ordered to be considered towards

pensionary benefits. The same be calculated and paid to the petitioner within a period of three months. In case, benefit is not released within a period of three months from the date of receipt of certified copy of this order, it would entail interest @ 9%, that too, from today till the actual payment.

5. However, in case the petitioner still feels aggrieved of the order passed by the authorities concerned, she shall be at liberty to approach this Court.

JANUARY 16, 2018
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *Yes/No*