

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2772-2016

Date of decision: 08.10.2018

Birmi Devi (deceased) through her LRs

...Petitioners

V/s.

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Ramesh Goyat, Advocate for the petitioner(s).

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Deepak Balyan, Advocate for respondent No. 3.

RITU BAHRI, J. (Oral).

By this petition, the petitioners are seeking setting aside the impugned order dated 15.02.2011 (Annexure P-10).

The petitioners' father was appointed on 02.12.1970 on the post of Khalasi on daily wages basis. His services were terminated on 06.12.1979. He raised a demand notice on 15.12.1979 and the labour Court reinstated him vide award dated 14.01.1987 (Annexure P-1). This award was challenged by way of CWP-4905-1987 which was dismissed on 23.08.2006 (Annexure P-2). The petitioner was reinstated on 28.02.2006 vide office order dated 28.02.2006 (Annexure P-7). Even the LPA-230-2007 was dismissed on 04.10.2008 (Annexure P-3) and the SLP-18449-2009 was dismissed on 08.07.2014 (Annexure P-4). The husband of the petitioner expired 03.01.2010 and the petitioner vide application dated 18.01.2011 applied for compassionate appointment of her son. This application was rejected on 15.02.2011 (Annexure P-10) and this order is being challenged by way of the present petition.

Learned counsel for the petitioner(s) has argued that in the order of rejection (Annexure P-10), it is mentioned that the husband of the petitioner had worked as permanent employee for only one and 1½ month and prior to this, he had worked as daily wager and as per provision of Section 3(d) of the Haryana Compassionate Assistance and Employment, the dependents of the deceased of Cooperative Sugar Mills Employee Rules, 2005 and its amendments, deceased employee means an employee:-

“(i) appointed on regular basis, and not working on daily wages, casual, apprentice, work charged, adhoc, contractual or re-employee basis and

(ii) who has served in the Cooperative Sugar mills of Haryana for atleast three years.”

Learned counsel for respondent No. 3 has argued that on the basis of written statement filed, the order dated 28.02.2006 whereby services of the petitioner's husband were regularized (Annexure P-7), was subsequently withdrawn. However, a perusal of para 13 of the written statement shows that neither the respondent withdrew its earlier order dated 28.02.2006 nor that order has been annexed with the written statement nor any order passed by RCS of the Cooperative Societies, Panchkula has been placed on record. Hence, this statement is vague. However, a perusal of order dated 28.02.2006 (Annexure P-7) shows that services of as many as 47 persons were regularized by the Panipat Cooperative Sugar Mills and the date of regularization is taken as 28.02.2006 (Annexure P-7). Hence on the date when the petitioner's husband died i.e. 03.01.2010, he had already completed almost 4 years as a regular employee of the Cooperative Sugar Mills and hence the impugned order dated 15.02.2011 (Annexure P-10) is liable to be set aside on the short ground itself and as per Cooperative Sugar

Mills Employee Rules, 2005, the petitioner has served for almost 4 years and hence his case cannot be rejected on the flimsy ground that he did not complete 3 years of regular service.

Order dated 15.02.2011 (Annexure P-10) is set aside. The writ petition is being disposed of by giving direction to the respondents that appointment be given to the son of Birmi Devi, who had died during the pendency of this writ petition and her LRs is already impleaded as party. This exercise shall be completed within a period of four months and information be sent to this Court in this regard.

08.10.2018

Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No