

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.6562 OF 2015
DECIDED ON: AUGUST 27, 2018

JASPREET KAUR

.....PETITIONER..

VERSUS

STATE OF PUNJAB AND ORS.

.....RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. P.K. Goklaney, Advocate for the petitioner.

Mr. Navdeep Chhabra, Additional Advocate General, Punjab.

JASPAL SINGH, J (Oral)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ particularly in the nature of mandamus, directing the respondents to release the complete pensionary benefits for the period, for which her husband late Sh.Angrej Singh served the department as well as interest @ 12% per annum from the date the aforesaid benefits become due till realization thereof.

2. A close scrutiny of the file transpires that instant petition has been filed on the basis of reply filed by the respondents to the legal notice served by learned counsel for the petitioner on behalf of petitioner, which is in fact not in accordance with service record. Moreover, the clear picture emerges from the written statement filed by respondent-State in the shape of affidavit of Sh. Gurdarshan Singh, PPS Deputy Superintendent of Police (Hqr.) Bathinda.

Para 2 of the aforesaid affidavit makes all the facts crystal clear, thus, it would be relevant to reproduce the said paragraph, which reads as under:-

“2. That the present writ petition has been filed by the petitioner only on the basis of reply dated 03.06.2014 filed by the answering respondent No.3, in response to the legal notice dated 21.04.2014 served by the petitioner through her counsel Sh. Pawan Kumar Goklaney. It is pertinent to mention here that in above said reply it was mentioned that Constable Agnrej Singh No.676/BTA husband of the petitioner was dismissed from his service w.e.f. 23.10.2003 by the then Senior Superintendent of Police, Bathinda vide order No.6355-63/Steno dated 23.10.2003, for remaining absent from his duty for 230 days 13 hours (copy of reply dated 03.06.2014 is annexed as Annexure R-1). However, it is made clear that the previous period he remained absent from his duty and period he remained out of service was not included in above said reply. Detail of the previous period he remained absent from his duty and period he remained out of service is as under:-

Sr. No.	Description of absence	Total days	Punishment Awarded
1	25.04.1994 to 27.04.1994	03	LWP
2.	04.08.1996 to 16.08.1996	13	NDP
3.	31.05.1998 to 17.06.1998	17	LWP
4.	29.07.1998 to 30.07.1998	02	LWP
5.	25.08.1998 to 10.12.1998	47	LWP
6.	10.09.2000 to 12.09.2000	03	LWP
7.	19.01.1999 to 07.02.2000	385	LWP
8.	25.03.2001 to 01.04.2001	08	LWP
9.	29.07.2001 to 20.08.2001	21	NDP
10.	03.09.2001 to 11.10.2001	39	NDP
11.	23.11.2001 to 11.02.2002	49	NDP
12.	08.05.2002 to 01.06.2002	24	NDP
13.	26.10.2001 to 30.10.2001	05	NDP
14.	07.10.2002 to 26.05.2003	231	NDP
15.	23.10.2003 to 12.01.2007	1175	NDP
16.	04.07.2003 to 23.10.2003	109	NDP
	Grand Total	2131	

As per the detail given above, the husband of the petitioner remained absent from his duty for total 2131 days i.e. 5 years 10 months and 6 days. Therefore, the family pension of the petitioner has rightly been fixed by the Accountant General, (A&E), Punjab Chandigarh. Neither the petitioner nor her counsel verified the factual position before filing the present writ petition. So, the averments made by the petitioner in para No.14 of the writ petition are totally misconceived. Hence, the present writ petition becomes infructuous and deserves to be dismissed.”

3. A glance at the aforesaid paragraph transpires that though the petitioner's husband was earlier dismissed from service vide order dated 23.10.2003 by the then Senior Superintendent of Police, Bathinda for remaining absent from duty for more than 230 days and 13 hours but subsequently he was reinstated but before his retirement he was taken away by the nature during his service. Thus, the petitioner is not entitled to the relief claimed through instant petition in view of the fact that her husband remained absent from his duty for 2131 days i.e. 5 years, 10 months and 6 days and under the Service Rules, her husband was not entitled for counting this period towards the pensionary benefits as well as towards family pension.

4. Thus, this Court does not find any legal flaw in declining the said relief by the respondents.

5. As an upshot of the aforesaid discussion, the instant petition is dismissed. However, with no order as to costs.

AUGUST 27, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***