

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

(204)

CWP-22796-2011

Date of Decision: March 27, 2019

Subadhra Devi

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mohd. Salim, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the prayer which is being made by the petitioner is that the petitioner be granted the gratuity in respect of service rendered by her late husband alongwith the family pension.

As per the facts mentioned in the writ petition, the husband of the petitioner joined as SPO on 23.05.1994 and while working as such, unfortunately he died on 26.07.2011. After the death, the petitioner is seeking the family pension as well as the gratuity for which the husband of the petitioner, was entitled for, for the service, which he rendered from the year 1994 till 2011.

Upon notice of motion, the respondents have filed the reply stating that there is no post of SPO in the police and these posts were created under a special police order. In case the SPO is absorbed as a Constable, it is only thereafter, an employee would have become entitled for the benefits of service.

When the case came up for hearing before this Court on 14.01.2019, the respondents were asked to re-examine the case of the petitioner under the Punjab Civil Services Rules as well as under the Payment of Gratuity Act, 1972 for the grant of relief as being prayed in the present writ petition.

In pursuance to the said direction, an affidavit dated 13.02.2019 has been filed in the Court today. The relevant portion of the affidavit reads as under:-

“3. (a) That the Payment of Gratuity Act 1972 provides for the payment of gratuity to employees engaged in Factories, Mines, Oil fields, Plantations, Ports, Railway companies, shops or other establishments.

(b) That in terms of establishment, it is clarified in Section 2 (I) which is reproduced below;

2. (a) belonging to, or under the control of, the Central Government,

2. (b) having branches in more than one State,

2. (c) of a factory belonging to, or under the control of the Central Government,

2. (d) of a major port, mine, oilfield or railway company, the Central Government,

4. That Ranjit Singh i.e. the husband of the petitioner was appointed as temporary S.P.O. in the Police Department on daily basis in District Kapurthala under the police Act as such, the Payment of Gratuity Act, 1972 is not applicable to him. Under these circumstances, Late Sh. Ranjit Singh, the husband of the petitioner is not entitled for the benefit of gratuity under the aforesaid act.”

Keeping in view the abovestated stand taken by the respondents, learned counsel for the petitioner states that he be allowed to withdraw the present writ petition with liberty to approach the competent authority under the Payment of Gratuity Act, 1972 for the grant of appropriate relief.

The present writ petition is dismissed as withdrawn with liberty as prayed for.

In case, any application is filed by the petitioner before the appropriate authority under the Payment of Gratuity Act, 1972 for the grant of relief in respect of the service rendered by the husband of the petitioner from the year 1994 till 2011, the same shall be decided on merits by passing an appropriate speaking order within a period of three months from the date of filing of such application.

March 27, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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