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

CWP-17187-2016

Date of Decision: 23.01.2019

Savitri Devi

... Petitioner

vs.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naveen Daryal, Advocate
for the petitioner.

Mr. C.S.Bakhshi, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J

In the present writ petition, the prayer of the petitioner is that her husband was suspended on 15.09.2007 keeping in view the fact that certain allegations made against him, and he remained on suspension till 31.01.2009, when he retired from service. Grievance of the petitioner is that the said period has not been counted as a qualifying service for the grant of the pensionary benefits to the late husband of the petitioner. Prayer of the petitioner is that as the department proceedings were dropped by the respondents in respect of the allegations for which the husband of the petitioner remained suspended from 15.09.2007 till 31.01.2009, therefore, the said period needs to be taken as a qualifying service for the grant of pensionary benefits.

The facts which have been mentioned in the writ petition are that while the husband of the petitioner was in service, an FIR No.61 dated 15.09.2007 was against him in Police Station Bapoli, District Panipat. As the husband of the petitioner was arrested, the respondent(s) started treating the him as suspended.

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In respect of the same allegations, for which the FIR was registered, a department inquiry was also ordered by the respondent/department. The same was ordered on 27.09.2007 and the inquiry was to be done by the Deputy Superintendent of Police (HQ), Karnal. It is pleaded that the husband of the petitioner remained under suspension till he attained the age of superannuation i.e. 31.01.2009. The averments have been made by the petitioner that after the retirement of the husband of the petitioner, the respondent(s) passed an order on 13.06.2009 dropping the said departmental proceedings.

Counsel states that after dropping of the proceedings, the husband of the petitioner became entitled to count the said service as a qualifying service for the grant of pensionary benefits.

Vide order dated 24.09.2010, the said benefit was declined and it was stated that the suspension period will not be treated as a period spent on duty and no further emoluments will be paid except the suspension allowance already paid. This action is impugned by the petitioner in the present case.

Upon notice of motion, reply has been filed by the respondent(s) and the factual narration as made above, has not been disputed. In the reply also, the respondents have admitted that though the husband of the petitioner was kept under suspension from 23.09.2007 till 31.01.2009, but no department action was taken against him despite serving of the charge sheet and the department proceedings were dropped, vide order dated 13.06.2009. The relevant assertions in this regard are admitted.

Further, it has been admitted that the husband of the petitioner was even acquitted in respect of the allegations mentioned in FIR No.61 dated 15.09.2007, vide judgment dated 13.05.2010 (Annexure P5).

I have heard learned counsel for the parties and gone through the record.

Once, the disciplinary proceedings were dropped against the husband of the petitioner, there was no occasion with the respondent(s) to deny him the benefit of treating the suspension period as period spent on duty for all intents and purposes. There is no punishment, which has been awarded to the husband of the petitioner in respect of the charge sheet which was issued to him on 27.09.2007. Once the proceedings were dropped and the allegation only remained an allegation, the pendency of the charge sheet and the suspension of the husband of the petitioner on those allegation, cannot cause prejudice to him.

Furthermore, it is admitted by the respondents that even in respect of allegations in FIR No.61 dated 15.09.2007, the husband of the petitioner was acquitted. Therefore, there was no reason with the respondent(s) to deny the petitioner the benefit of the period for which the respondent(s) suspended the husband of the petitioner on the basis of the allegations. The order dated 24.09.2010, is not supported by the reasons for denying the benefit of salary and other benefits for the period the husband of the petitioner was kept under suspension. Therefore, order dated 24.09.2010, declining the benefit of suspension period on 23.09.2007 till 31.01.2009 is set aside and necessary consequence is that the said period is to be treated as duty period for all intents and purposes.

A direction is given to the respondent(s) to grant the benefit of salary to the petitioner for the said period and also revised the pensionary benefits of the husband of the petitioner by treating the period from 23.09.2007 till 31.01.2009 as a qualifying service for all intents and purposes.

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Let calculation, in respect of the claim of the petitioner for the arrears of salary for the abovesaid period and the revision of the pensionary benefits by treating the above said period as a qualifying service, be done within a period of two months from the date of receipt of certified copy of this order. The amount, for which the petitioner becomes entitled for after re-calculation, will also be given to the petitioner within a period of one month thereafter. As the denial was arbitrary, the petitioner will be entitled for the interest @ 9%.

The writ petition stands allowed in above terms.

23.01.2019
smriti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No