

**218 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.26809 of 2013.

Date of Decision: 03.05.2019

Babli Devi alias Kailash Kumari

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Vijay Lath, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

JITENDRA CHAUHAN J.

By way of present civil writ petition, the petitioner seeks quashing of order dated 06.03.2013 (Annexure P-10) passed by respondent No.2 vide which the claim of the petitioner for notionally regularizing the services of her late husband Ramesh Kumar was declined.

The petitioner also seeks issuance of a direction to the respondents to notionally regularize the services of her late husband with effect from the date, the services of his juniors were regularised and to give appointment to the petitioner on compassionate ground on class-IV post.

Ramesh Kumar, late husband of the petitioner, joined the services of the respondents as Pump Operator on daily wages on 01.06.1991. He worked as Pump Operator at various places in District Hoshiarpur for 19 years and 10 months without any break in service

till 02.03.2011 i.e. the date of his death. He along with his other colleagues had filed a CWP No.166 of 2009 for grant of minimum wages of pay scale admissible to regular employee and further prayed for regularization of their services. The said writ petition was decided in view of LPA No.1024 of 2009 decided on 30.08.2010 (Annexure P-2). The petitioners therein were held entitled to minimum of the pay scale of the categories to which they belong with all allowances as revised from time to time. Thereafter, Ramesh Kumar met with an accident on 02.03.2011 and unfortunately he died in the said accident leaving behind the petitioner and three minor children who are in the stage of starvation. A few days after the death of Ramesh Kumar, the State of Punjab issued policy dated 18.03.2011 (Annexure P-4) as per which the employees who had put in ten years' of service were ordered to be regularised. The services of all the employees shown in the seniority list have been regularised except the services of Ramesh Kumar-husband of the petitioner despite the fact that he was at serial No.5 in the seniority list. Even the juniors to Ramesh Kumar have been regularised. Had Ramesh Kumar not died in the accident then his services would have also been regularised.

It is contended that the legal heirs of Ramesh Kumar are entitled to get notional regularization of services of Ramesh Kumar. As the services of all the daily wagers who had completed 10 years' upto December, 2006 are to be considered for regularization, the services rendered by Ramesh Kumar upto December, 2006 and thereafter are

liable to be considered for regularization by considering his length of service.

On the other hand, on behalf of the respondents, it is contended that deceased, Ramesh Kumar joined the respondent department as a Pump Operator on 01.06.1991 as a daily wager. He died on 02.03.2011. His name stood at serial No.954 in the seniority list (Annexure R-1). His name was considered for regularization in terms of regularization policy dated 15.12.2006 and Pump Operators upto seniority No.616 could only be regularised as per availability of sanctioned posts at that time. As the husband of the petitioner stood at serial No. 954 in the seniority list, his services could not be regularised. On issuance of new regularization policy dated 18.03.2011, Pump Operators upto seniority No.1760 were regularised, Again the name of Ramesh Kumar husband of the petitioner was to be considered for regularization as per policy dated 18.03.2011 but he expired on 02.03.2011 prior to the issuance of policy dated 18.03.2011. Had he been alive, he would have been entitled to the appointment on a regular sanctioned post as per Policy dated 18.03.2011.

Heard.

It is to be noticed that Ramesh Kumar, late husband of the petitioner, joined the services of the respondents as Pump Operator on daily wages on 01.06.1991. He worked as Pump Operator at various places in District Hoshiarpur for 19 years and 10 months without any

break in service till 02.03.2011 i.e. the date of his death.

In **Gurdeep Kaur versus The State of Punjab and others.**

CWP No.3320 of 2013 decided on 10.02.2015 it was held as under:-

“On due consideration of the matter, I am of the view that stand of the respondents is unjust. The policy such as grant of compassionate appointment have to be viewed from the perspective of its intended beneficial object and cannot be restricted to technicalities. The husband of the petitioner was indeed entitled to regularization in terms of the regularization policy and would have certainly been granted the benefit, had the will of providence not prevailed. Undisputedly, his name had been sent up for the benefit of regularization on 1.4.2011 and in normal course, such a benefit ordinarily would have flowed to the husband of the petitioner in which eventuality, the petitioner's case for grant of compassionate appointment in the event of the death of her husband would have also been considered appropriately.”

Further in **LPA No. 1483 of 2015 titled as State of Punjab**

and others vs. Gurdeep Kaur decided on 16.05.2017 it was held as

under:-

“Otherwise also, the admitted facts on record reveal that the deceased had served for more than 21 years. He was entitled to regularization of services as per Government policy dated 18.03.2011. The eligibility condition for regularization of services was that a daily wager must have completed 10 years of service on or before 31.12.2006. The deceased employee admittedly fulfilled those eligibility conditions. The delay in issuing the formal

order of regularization was attributable to the ministerial exercise of the appellants and not to the deceased employee. In terms of the Government policy, the status has to be seen as on 31.12.2006 and he was admittedly eligible for regularization on the said date. At best his status could be seen on the date when the Government policy dated 18.03.2011 was issued and on that date also, he was very much alive fulfilling the eligibility condition for regularization of services. Still further, his claim was recommended for regularization on 01.03.2011, namely, the date when he was alive and in service. In this view of the matter, the delay in issuance of order of regularization of services cannot work to the disadvantage of the dependents of the deceased employee. The services of late Bhola Singh therefore shall be deemed to have been regularized as on 01.04.2011. Consequently, he is taken to have died as a regular employee thereby entitling the respondent eligible for appointment on compassionate grounds under the ex gratia policy and for grant of family pension.”

Keeping in view the dictum of law, this Court is of the opinion that had the husband of the petitioner not died, the benefit of regularization would have flowed to him and he would have died as a regular employee. Thus, the present civil writ petition is allowed. The impugned order dated 06.03.2013 (Annexure P-10) is quashed. The respondents are directed to notionally regularize the service of late Ramesh Kumar-husband of the petitioner with effect from the date, the services of his juniors were regularised. The respondents are directed to reconsider the claim of the petitioner for grant of benefit of

compassionate appointment by treating her husband as a regular employee. The petitioner would also be entitled to the benefit of family pension. The necessary exercise be done within a period of two months from the date of receipt of copy of the judgment.

03.05.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

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