

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2660-2015 (O&M)
Date of Decision:-14.01.2019.

Sharanjit Kaur

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Harinder Sharma, Advocate for the petitioner.

Ms. Anita Balyan, Advocate for the respondents-UIOI.

ARUN MONGA, J. (Oral)

The present petition has been filed seeking a writ in the nature of *certiorari* to quash the impugned order dated 07.03.2013 (Annexure P-2) whereby husband of the petitioner was dismissed from service for remaining absent since 11.10.2012 (A.N.). Further consequential prayer has been made to quash order dated 27.05.13 (Annexure P-5) followed by impugned order dated 30.04.2014 (P-8), whereby, the claim of the petitioner-widow for grant of appointment on compassionate grounds, was rejected.

2.) Succinctly speaking, the case of the petitioner is that her husband joined the service in Border Security Force in the year 2001 and had rendered service of 13 years when vide order dated 07.03.2012 passed by respondent No.4/Commandant of the BSF, his services were terminated

for illegal absence without leave since 11.10.2012. Before the said order of

dismissal could be challenged, the husband of the petitioner met with an unfortunate road accident leading to his untimely death. After demise of her husband, the petitioner represented to the respondents vide representation dated 07.03.2013 (Annexure P-3) *inter alia* seeking compassionate appointment which was rejected vide impugned order dated 27.05.2013 on the ground that there is no provision for grant of job to family member of a dismissed government servant. Confronted with the said impugned order, the petitioner submitted an another representation dated 28.02.2014 (Annexure P-6) to the Director General of BSF wherein she detailed out the reasons of her husband's absence without leave and in view thereof prayed for removal of tag of dismissed employee imposed on her husband and consequent thereto grant her a job on the compassionate grounds. The said representation was yet again rejected on the ground that there is no provision for appointment of a family member of dismissed Government servant.

3.) As regards the prayer of consequential benefits to be granted to the widow viz. family pension and all other entitlements, the same was also denied on the ground that since the petitioner's husband was dismissed in service and the said dismissal order was never challenged, therefore, the widow is not entitled to such benefits in view of the dismissal of her husband.

4.) In the circumstances, the fact of the matter remains that the dismissal of the husband of the petitioner has not been formally challenged. Even though in her representation dated 28.02.2014, the petitioner had threadbare dealt with the absence without leave of her deceased husband, which was the attributed delinquency leading to his dismissal from service.

5.) Keeping in view the interest of justice and equity, the respondent No.2 is directed to treat the representation dated 28.02.2014 (Annexure P-6) as a statutory appeal under Rule 28-A of the Boarder Security Forces Act, 1969 by condoning the period of limitation, with liberty to the petitioner to add supplementary grounds therein. The respondent No.2 shall proceed to deal with the said representation as statutory appeal in accordance with law and pass speaking order preferably within a period of 2 months from the date of receipt of certified copy of this order. It is made clear that the rival contentions of both the parties are kept open to be adjudicated in the statutory appeal under Section 28-A of the Act, *ibid*. Including the contention of the learned counsel for the respondents that the petitioner being widow of the dismissed employee has no *locus standi* to file a statutory appeal after the demise of her husband.

6.) Disposed of accordingly.

(ARUN MONGA)
JUDGE

January 14, 2019.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.