

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CR No.2308 of 2007 (O&M)

Date of decision:14.03.2022

Union of India and others

...Petitioners

Versus

Lakhwinder Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. S.K.Sharma, Advocate, Senior Panel counsel
for the Union of India-Petitioners**

**Mr. Mandeep Singh Bedi, Sr. Advocate, with
Ms. Jaitsri Kaur Bhatia, Advocate,
for respondent no.1 to 3.**

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The court is faced with a peculiar situation. On the death of late Sh. Tarsem Singh, Ex. Gangman, employed in the Railways, the respondents filed a suit for declaration with a prayer to grant employment to one family member on compassionate ground and pay ex-gratia amount, family pension and gratuity.

The Civil Court by an ex-parte judgment and decree dated 10.10.1997, decreed the suit. In the first execution petition, the petitioner-Union of India undertook to comply with the decree.

Pursuant thereto, Sh. Jaspreet Singh son of late Sh. Tarsem Singh has been given appointment in the railways on the compassionate basis.

However, since, the remaining benefits were not released

therefore, another application for execution of the decree was filed. The Union of India and Railways objected to its maintainability on the ground of lack of jurisdiction with the Civil Court. It was pointed out that the service matters of the employees of the railways are exclusively decided by the Central Administrative Tribunal constituted under the Administrative Tribunal Act, 1985.

The execution petition has been dismissed by the court on the ground that at this stage the objection with regard to lack of jurisdiction cannot be entertained.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing both the parties are ad-idem that the jurisdiction with regard to the service matters of the railways employees as well as former employees lies exclusively with the Central Administrative Tribunal. In such circumstances, ex-parte judgment and decree passed by the Court, on 10.10.1997, is without jurisdiction.

However, learned senior counsel representing the decree holder has submitted that the widow and the other family members have been denied the retiral benefits for more than last 3 decades.

No doubt, there is some substance in the argument of the learned senior counsel. However, once the judgment and decree passed by the Civil Court is without jurisdiction, such objection can be permitted to be taken up for the first time in the execution petition. In fact, the judgment and decree has been passed by the Court which inherently lacks the jurisdiction.

On merits, the learned counsel representing the petitioner

contends that late Sh. Tarsem Singh was working as a daily wager and therefore, is not entitled to the retiral benefits.

In the facts of the case, this Court is compelled to pass such orders while balancing the equities as well as the technical objection. In such circumstances, it is considered appropriate to direct the General Manager (Personnel) Head Quarter, Baroda House, New Delhi, Northern Railway, to consider the claim of the respondents with regard to the pensionary benefits and ex-gratia grant and gratuity, if any, due to the respondents within a period of 6 weeks, in accordance with the law. It is observed that the General Manager will pass a speaking order after grant of hearing to the respondents.

If the respondents are aggrieved of the order passed by the General Manager (Personnel), they shall be entitled to file a petition before the Central Administrative Tribunal. If such petition is required to be filed, the respondents shall be entitled to pray for excluding the period from the date of filing of the suit till the order is passed by the General Manager in accordance with the provisions of Section 14 of the Limitation Act, 1963.

With these observations, the revision petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

March 14, 2022
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(ANIL KSHETARPAL)
JUDGE

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