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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1125-2020
DECIDED ON: 16.12.2023

KRISHNA DEVI

.....PETITIONER

VERSUS

STATE OF HARYANA & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ashish Gupta, Advocate with
Mr. G.S. Bidhar, Advocate
for the petitioner.

Mr. Safia Gupta, AAG, Haryana.

Mr. Parveen Chauhan, Advocate for
Mr. GDS Wasu, Advocate
for respondents No.2 and 3.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been invoked seeking a writ in the nature of *Mandamus* directing the respondents to grant/release the family pension benefits along-with arrears w.e.f the date it became due with interest @ 12% per annum on all the delayed payments of her family pension.

2. Brief facts of the case are that the husband of the petitioner namely Hari Om Sharma was a regular and confirmed employee of the Haryana Tenaries Limited, Jind as Assistant Mechanic. However, in the year 1988, the Haryana Tenaries Limited was closed down by the Govt. of Haryana and consequently the

employees of the Haryana Tenaries Limited were retrenched from service. Accordingly, aggrieved by the said illegal and arbitrary action of the respondents-State, the employees of Haryana Tenaries Limited challenged the order of closure by way of CW No.9469 of 1988 in this Court and after due consideration of the matter, vide Judgment Dated 01.12.1988, this Court was pleased to direct the respondents to adjust/absorb the employees of the Haryana Tenaries Limited in other Govt. Departments or Boards/Corporations according to their individual qualification and fitness. While passing the aforesaid judgement, a direction was also issued to the department that the service rendered by the employees of the Haryana Tenaries Limited shall also be taken into account, as qualifying service after their absorption/adjustment in other departments under the State of Haryana. The appointment of the husband of the petitioner in the Haryana State Electricity Board was on regular basis. Unfortunately, the husband of the petitioner died in harness on 31.05.1990 leaving behind his widow-petitioner and 4 minor children, who was the sole bread winner of the family. Despite making application seeking employment on compassionate grounds, the petitioner was denied appointment on suitable post by the erstwhile Haryana State Electricity Board vide order dated 14.08.1991 on the ground that her request is not found feasible for acceptance in terms of the rules/instructions of the State Government. Thereafter, the Petitioner filed CWP No.3238 of 1992 challenging the said order of rejection of her claim for compassionate employment, which was admitted and direction was issued to list the matter for hearing within a period of 3 months being urgent in nature. Vide order dated 26.09.2013 the said writ petition was allowed and a direction was issued to the respondents to consider and appoint the petitioner against an appropriate post as per her eligibility and it was left open for the petition to forego her right in favour of

her son. The afore-said order dated 26.09.2013 passed was challenged by the respondents by way of LPA No.170 of 2014, which stands dismissed vide order dated 03.02.2014. When the directions passed by this Court were not complied with, petitioner was compelled to approach this Court again by way of filing contempt petition No.2474 of 2014. During the pendency of the COCP, respondent Corporation issued the appointment letter in favour of the son of petitioner and in lieu thereof the contempt petition was ordered to be disposed off by this Court vide Order dated 28.04.2014 having been rendered infructuous. The petitioner through her counsel got served a Legal Demand Notice upon the respondents on 02.12.2015 claiming the benefit of family pension and other retiral/terminal dues of her late husband. The petitioner again submitted a reminder dated 5.12.2019 to the respondents to get release her due 'family pension benefits, besides personally approaching the respondents time and again but till date no action has taken by the respondents till date. Hence the present petition.

3. It has contended by learned counsel for the petitioner that since the issue with regard to the nature of the employment of the husband of the petitioner stands settled finally after grant of compassionate employment to the son of the petitioner, and it was held that the nature of the employment of the husband of the petitioner was that of a regular employee by implication, therefore, the petitioner also became entitled for grant of family pension and other retiral/terminal dues of her late husband who died in harness on 31.05.1990. The petitioner also served legal notice upon the respondents.

4. Learned counsel for respondents No.2 and 3 has put in appearance and filed a short reply stating that the present petition suffers from inordinate delay and laches, as the petitioner is claiming for family pension w.e.f. 01.06.1990 for which

she has served a legal notice on 05.12.2019 i.e. after a gap of 30 years. Hence, the same is liable to be dismissed on this ground alone. It is contended on behalf of respondents No.2 and 3 that the petitioner expired on 31.05.1990 during the period of training and he could never be appointed on regular basis of HSEB. It is further contended that the son of the petitioner has already been given an employment to the post of Helper on compassionate ground.

5. Before going into the merits of the case, it would be relevant to reproduce Rule 4.12-A of Punjab Civil Services Rules, Vol-II:-

“In respect of Class-III and Class-IV employees, who are required to undergo departmental training relating to jobs before they are put on regular appointment, training period may be treated as qualifying service for pension, if the training is followed immediately by regular appointment. This benefit will be admissible to all such employees even if they are not given the scales of pay of the post but only a nominal allowance during the training.”

6. From the perusal of afore-said Rule, it is crystal clear that the husband of the petitioner expired on 31.05.1990 i.e. during training period and as such, he was not given offer of appointment of Plant Attendant Grade-II/Technician Grade-II in regular capacity due to death before completion of training period. The training period of the deceased employee is not followed by regular employment, thus, the petitioner is not liable for family pension in view of the afore-said Rule. Moreover, the son of the petitioner has already been given the employment to the post of Helper.

7. It is also evident from the case file that there is an inordinate delay on the part of the petitioner for approaching the Court and the petitioner is not in a position to explain as to why a delay of 30 years has occurred in approaching the Court.

8. In view of the discussions made hereinabove, the present petition lacks merit and is dismissed with costs of Rs.25,000/-, which shall be deposited with the State Exchequer within a period of one month from the date of receipt of certified copy of this order.

16.12.2023

Sham

(SANDEEP MOUDGIL)
JUDGE

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