

CWP-7576-2022

2023:PHHC:118144

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-7576-2022

Date of Decision :-06.09.2023

Rani Devi @ Rani

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Deepak Sonak, Advocate for the petitioner.

Mr. Tapan Yadav, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the grievance of the petitioner is that after the death of her husband namely, Bhag Singh, respondents have passed the impugned order dated 03.12.2021 (Annexure P-3) holding her husband liable for payment of Rs.95,200/- as recovery, which action of the respondents is arbitrary and illegal as no recovery can be ordered against a dead person.

As per the facts mentioned, husband of the petitioner was appointed as Octroi Clerk in the Municipal Committee and continued working as such up to the year 2000 when the husband of the petitioner was declared surplus and vide order dated 03.01.2000 was transferred as Gram Sachiv in the Panchayat department. Thereafter, under the policy of the Government of Haryana dated 01.10.2003, services of the husband of the petitioner were regularized in the year 2003. Unfortunately, on 05.10.2013,

husband of the petitioner died while in service. After the period of eight years of the death of the husband of the petitioner, an allegation was leveled against him that the Panchayat land was given on lease to one Baljeet son of Natha Ram for an amount of Rs.95,200/- and the payment of the said amount was also made to the then Sarpanch vide receipt No.14/3924 dated 18.05.2012 but the said amount was not deposited in the Panchayat fund by the husband of the petitioner hence, the said amount is liable to be recovered from him. The said notices dated 26.08.2021 and 30.09.2021 (Annexure P/1 and P/2) respectively as well as impugned order dated 03.12.2021 (Annexure P/3) issued by the respondents imposing recovery upon the husband of the petitioner are under challenge in the present petition.

After notice of motion, respondents have filed reply wherein, it has again been reiterated that once the amount was deposited by Baljeet Singh on 18.05.2012 and the same does not find mentioned in the record, husband of the petitioner is liable to pay the said amount.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It may be noticed that before holding the husband of the petitioner liable for the payment of an amount of Rs.95,200/-, no enquiry has been conducted as to how the husband of the petitioner is liable to deposit the said amount. It is a conceded position that payment of Rs.95,200/- for leasing the Panchayat land was deposited with the Panchayat. Further, no liability can be fastened against an employee without holding due enquiry against him and in the present case, husband of the petitioner died while in service on 05.10.2013 and after a period of eight years of his death and that too without holding any enquiry, the said liability was fastened upon the

husband of the petitioner, which is not justifiable.

It is a settled principle of law that even if disciplinary proceedings are pending against an employee, the same can not be continued after his/her death. The said principle of law has already been settled in **CWP-21917-2016** titled as **Shiksha Devi vs. Haryana State Federation of Consumers Co-operative Wholesale Sores Limited**, decided on 02.08.2022.

Relevant paragraph of the judgment is as under:-

“11.Even otherwise, even if it is assumed for the sake of argument that respondent had jurisdiction to issue the chargesheets to the late husband of the petitioner even after his retirement, then also the impugned order of recovery by way of punishment can not be sustained for the reason that no proceeding can continue against a dead employee. The husband of the petitioner unfortunately died on 16.05.2015. It is the conceded position that till the said date, none of the chargesheets had attained finality so as to give jurisdiction to the respondent to pass any orders on the chargesheet. After the death of employee, disciplinary proceedings abate, hence, as the husband of the petitioner had already passed away, proceeding initiated by the respondents in respect of three chargesheets could not have continued any further. Keeping in view the said factual position, the recovery of Rs.6,44,890/- which has been imposed upon late husband of the petitioner is held to be bad and accordingly quashed.”

In the present case, an employee is being held liable to pay an amount after eight years of his death, which is not permissible.

Keeping in view the facts and circumstances noticed hereinbefore, show cause notices dated 26.08.2021 and 30.09.2021 (Annexures P/1 and P/2) respectively as well as impugned order dated 03.12.2021 (Annexure P-3) imposing recovery are set aside as no recovery can be fastened against the husband of the petitioner after 08 years of his

CWP-7576-2022

2023:PHHC:118144

death.

Present petition stands allowed and the impugned notices are set
aside.

September 06 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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