

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 10268 of 2009 (O&M)

Reserved On: 30.01.2023
Date of Decision: 06.02.2023

Saroj Bala

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Manu K. Bhandari, Advocate
for the petitioner(s).

Mr. Athar Ahmed, Deputy Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. Through this writ petition filed under Article 226/227 of the Constitution of India, the petitioner seeks the following substantive reliefs:-

- “i. That the writ of certiorari be issued and the order dated 26.03.2008 Annexure P-26 and dated 06.06.2003 Annexure P-14, Annexure P-16/A dated 31.05.2004 and subsequent orders vide which the claim of the petitioner for family pension/retiral benefits was declined is to be quashed.*
- ii. That the petitioner may kindly be granted retiral benefits consequent upon 33 plus years service of the petitioner's husband (now deceased).*
- iii. That the respondents be directed to grant the petitioner*

pensionary benefits as per Annexure P-27 to Annexure P-29 in terms of the notice for seeking premature retirement on 30.04.2002 submitted by Sh.Sardari Lal to the Registrar, Cooperative Societies, Punjab, Chandigarh.

iv. That order denying pensionary benefits without giving any reply to the notice given by the husband of the petitioner who was ill in his life time is bad in law.”

2. In order to understand the controversy involved in the present writ petition, the relevant facts, in brief, are required to be noticed. The petitioner herein is the widow of late Sh. Sardari Lal who was working as Inspector, Department of Co-operative Societies, Punjab. On 30.04.2002, the petitioner's husband applied for voluntary retirement which was rejected on 08.05.2002. Thereafter, the petitioner was issued the first charge sheet on 23.05.2000. After getting the necessary documents, the petitioner's husband filed his reply. Thereafter, he was issued the second charge sheet on 27.12.2000. On 22.03.2001, the third charge sheet was issued to the petitioner's husband, whereas, the fourth charge sheet was issued on 25.02.2001. In the various departmental inquiries, the charges were held to be proved. Finally, the petitioner's husband was dismissed from service on 06.06.2003 after giving him the opportunity to show cause. The petitioner's husband challenged the correctness of the aforesaid order by filing an appeal on 19.08.2003. On 31.05.2004, the appeal was dismissed, though the order was issued on 07.06.2004. On 19.05.2004, the petitioner's husband died. The petitioner filed an appeal before the Financial Commissioner, which was rejected. Thereafter, she filed a review application before the Financial

Commissioner, Punjab Cooperation Department. On 09.12.2005, the Financial Commissioner, assuming that on the death of the petitioner's husband, the inquiry proceedings are required to be dropped, quashed/recalled the order dated 07.06.2004, which was previously passed by him. However, the Registrar, Co-operative Societies, Punjab, called upon the Financial Commissioner to review. Hence, realizing his mistake, the Financial Commissioner withdrew the order on 19.01.2006. The petitioner did not initiate any further proceedings. On 09.01.2006, she filed an application for the release of the retiral benefits of her late husband, which was rejected on 01.05.2006. After serving notice for demand of justice on 01.11.2007, the petitioner filed the Civil Writ Petition No. 823 of 2008, which was disposed of with a direction to the respondents to pass a speaking order in the matter. Accordingly, after considering the claim of the petitioner, her representation was rejected vide order dated 26.03.2008. Thereafter, now, she has filed this writ petition.

3. A detailed reply to the writ petition has been filed contesting the petitioner's case.

4. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

5. The learned counsel representing the petitioner claims that on 17.11.2005, the Financial Commissioner had correctly withdrawn his previous order passed on 07.06.2004. He submits that once the petitioner's husband had died, the disciplinary proceedings were required to be dropped. The petitioner, in this regard, relies upon the Punjab Government's Instructions dated 23.06.1992. He further submits that the petitioner's

husband had served the department for a period of 34 years, hence, the petitioner should have been granted the retiral benefits.

6. This Court has considered the submissions of the learned counsel representing the petitioner, however, finds no substance therein on account of the following reasons:-

- i) As many as four charge sheets were issued against the petitioner's husband wherein, after detailed inquiries, the respective charges were held to be proved. The petitioner's husband was given opportunities to show cause while ensuring proper hearing. The disciplinary authority passed the order dismissing the petitioner's husband from service on 06.06.2003. Even the appeal filed by the petitioner's husband was dismissed on 31.05.2004, though the order was issued on 07.06.2004. Thus, the disciplinary proceedings culminated into final order on 06.06.2003 when the disciplinary authority, finally, dismissed him from service. Hence, the disciplinary proceedings could not be dropped on account of the death of the petitioner's husband.
- ii) It would be noted here that the appeal filed by the petitioner's husband was dismissed on 31.05.2004. Though, she filed a review which was allowed, however, subsequently, the order was withdrawn on 19.01.2006. The petitioner did not challenge the correctness of the aforesaid order, however, started filing various applications for grant of retiral benefits. This writ petition

was filed by the petitioner on 13.07.2009. Once the petitioner’s husband has been duly dismissed from service, the petitioner or her husband are not entitled to the retiral benefits.

- 7. Keeping in view the aforesaid discussion, finding no merit, the writ petition is dismissed.
- 8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 06, 2023
“DK”

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