

2023:PHHC:078575
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CWP No.1186 of 2017

Date of Decision: 29.05.2023

BHAGAWATI DEVI

.....Petitioner

Vs

STATE OF HARYANA & ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Charanji Lal, Advocate
for the petitioner.

Mr.Tapan Kumar Yadav, D.A.G.Haryana.

RAJ MOHAN SINGH, J.(Oral)

1. In compliance of the order dated 12.01.2023, the additional affidavit of Ajay Garg, General Manager, Haryana Roadways, Kaithal has been filed along with the additional documents (Annexures R-11 to R-15.) The same is taken on record.

2. The petitioner is widow of Shri Ram, ex driver in Haryana Roadways, Kaithal. Husband of the petitioner was earlier serving in Indian Army from 12.08.1960 to 31.08.1975 and had also served during emergency from 26.10.1962 to 10.01.1968. He was appointed in Haryana Roadways Sirsa on 03.04.1981 and his services were terminated on 29.06.1981. In the appeal filed by the

husband of the petitioner, the order of termination was set aside by the State Transport Controller, Haryana, vide order dated 01.10.1982 and thereafter, he was re-instated in service w.e.f. 14.11.1982. The period for which the husband of the petitioner remained out of service from 29.06.1981 to 01.07.1981 was sanctioned as earned leave and the period from 02.07.1981 to 13.11.1982 was sanctioned as without pay leave. Thereafter, the husband of the petitioner was transferred in the office of Haryana Roadways, Rewari, where he had joined his duty on 21.05.1985 and on further transfer to Haryana Roadways, Kaithal, he had joined his duty on 01.10.1988.

3. Learned counsel for the petitioner, with reference to date of birth of the husband of the petitioner, submitted that his date of birth was 14.08.1936 and on 30.08.1991, he had completed 55 years of age. The husband of the petitioner was given one year extension in service from 14.08.1991 to 30.08.1992 by the competent authority, vide order dated 20.08.1991 after being found fit to drive the heavy duty vehicle. Ultimately, the husband of the petitioner was found to be unfit by the Civil Surgeon, Kaithal, vide letter dated 15.07.1992 and he was allowed to retire from service on 31.08.1992 in terms of Rule 5.18 of Punjab Civil Services Rules, Volume II. The case of the petitioner has not been considered for pensionary benefits on the ground that the husband of the petitioner had no qualifying service of ten years at the time of retirement. The tabulated information as given in para No.3 of the

written statement is in this context.

4. Husband of the petitioner ultimately died on 31.01.2001 and with reference to delay in filing this petition after 24 years of his retirement and about 16 years of his death, learned counsel for the petitioner submitted that the arrears of amount can be confined to 38 months. However, the pension being recurring cause of action is not hit by any such delay. It appears from the stand taken in the written statement that for grant of benefit of military service or the services rendered during emergency from 26.10.1962 to 10.01.1968, no such specific stand has been taken in the written statement, except to say that the husband of the petitioner did not join on the call of nation. In the additional affidavit filed by Ajay Garg, General Manager, Haryana Roadways, Kaithal, new stand has been taken vis-a-vis the interpretation of Rule 4.3 (b) of the Punjab Civil Services Rules, Volume II. No such stand has been taken in the written statement.

5. In my considered opinion, the impugned rejection of the claim of the petitioner, as per the stand taken by the respondents in the written statement as well as in the additional affidavit needs to be revisited.

6. Let a fresh lawful order be passed by the competent authority after considering the service during the period of emergency from 26.10.1962 to 10.01.1968 towards total length of qualifying service for the purpose of pension and other retiral dues of the husband of the petitioner. The bar created in terms of Rule

4.3 (b) of the Punjab Civil Services Rules, Volume II, be also considered in accordance with law.

7. Let the needful be done within a period of two months from the date of receipt of certified copy of this order.

8. Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

May 29, 2023

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whether speaking/non speaking	yes/no
whether reportable/non reportable	yes/no