

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

211

CWP-14182-2017 (O&M)
Decided on : 14.11.2023

Darshana

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the order dated 16.02.2017 (Annexure P-13) by which the service benefits after the death of the husband of the petitioner has been declined in favour of the petitioner.

2. As per the facts mentioned in the petition, the late husband of the petitioner was appointed as daily wager during the strike period which took place in December, 1993. Thereafter, when the strike was over, the services of the some employees, who were appointed during the strike period, were terminated, which action of the respondents has been challenged by the said employees before this Court. This Court had directed the respondents to consider the case of the said employees, whose services were terminated, sympathetically and to explore the possibility if any of the

employee, who was appointed during the strike period can be allowed to continue in service.

3. From the pleadings, it transpires that thereafter, the late husband of the petitioner was appointed as a washer boy on contractual basis with the Haryana Roadways at Delhi Depot.

4. During the course of his employment, the late husband of the petitioner willfully remained absented from duty and ultimately died. The prayer of the petitioner is that the service of her late husband is entitled to be regularized and thereafter, the petitioner be granted the benefits which the dependent of a regular employee, who died while in service is entitled for .

5. In the reply to the claim raised by the petitioner, the respondents-department submitted that the husband of the petitioner had abandoned the job on his own by willfully absented himself and it is only thereafter, during his absence period he died, hence, the claim of the regularization does not arise in the present case when the husband of the petitioner had abandoned his job on his own and died thereafter.

6. Learned counsel for the petitioner submits that the late husband of the petitioner, has become unwell due to which he could not discharge his duties and was getting treated for due ailments.

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

8. It is a conceded fact between the parties that the late husband of the petitioner was not a regular employee so as to entitle the legal heirs/dependents any right to avail any benefit with regard to a regular employee, who died while in service. It is a settled principle of law that only the dependent of the deceased employee who was a regular government employee, the benefits of service are to be granted and not otherwise. That

being the factual and legal aspect that the husband of the petitioner who was not a regular employee of the department, the benefits claimed in the present petition are not admissible.

9. Further, it has already come on record that the husband of the petitioner was appointed as washer-boy with the Haryana Roadways at Delhi Depots and had abandoned the job and the said fact has gone unrebutted as there is no replication filed by the petitioner to the said allegations raised in the reply by the respondents. That being a factual aspect too that once, the husband of the petitioner had already abandoned the job prior to his death, he cannot be treated as a regular employee so as to entitle the petitioner any benefit of being a dependant of a regular employee.

10. Further, for seeking the regularization of service, an employee has to rely upon the regularization policy but nothing has come on record under which regularization policy, the claim for regular service is claimed by the petitioner with regard to her late husband. In the absence of any such details given by the petitioner in the petition, the benefits of regularization of service of the late husband of the petitioner cannot be allowed.

11. Keeping in view the above, no ground is made out for the grant of the benefits as claimed in the present petition, accordingly, the present petition stands dismissed.

12. Dismissed.

13. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

14.11.2023

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Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: Yes/~~No~~