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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-4644-2013 (O&M)
Date of Decision: 03.05.2023**

SANTOSH DEVI

.. Petitioner

Vs.

UNION OF INDIA AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vijay Deep Rathee, Advocate for the petitioner.

Mr. Aseem Aggarwal, Advocate for respondent-UIOI.

...

Manoj Bajaj, J. (Oral)

Petitioner-Santosh Devi has filed this writ petition under Article 226 Constitution of India for issuance of a writ of Certiorari for quashing of order dated 05.12.2001 (Annexure P-3) passed by respondent No.4 dismissing her husband Kamal Singh (Constable) from CRPF service, as well as the order dated 09.09.2002 (Annexure P-4) passed by Appellate Authority-respondent No.3, whereby the order dated 05.12.2001 was upheld. Further, the petitioner has challenged the order dated 22.03.2010 (Annexure P-8) passed by respondent No.5, whereby the petitioner's request for grant of family pension was declined.

Learned counsel for the petitioner has argued that the petitioner's husband, namely, Kamal Singh was enrolled in Central Reserve Police Force (CRPF) on 01.06.1974 and he continuously served the force sincerely and honestly till 2001. He further submits that Kamal Singh was granted 30 days earned leave w.e.f. 24.03.2000 to 22.04.2000 from Group Centre Jharoda Kalan, Delhi and he was to report at 112 Battalion, CRPF,

Neemuch (Madhya Pradesh), but he could not report for duty because of his illness, and had requested for extension of leave. Learned counsel has further pointed out that the petitioner's husband reported at Neemuch on 09.01.2001 and he was subjected to departmental enquiry under Section 11 CRPF Act read with Rule 27 of CRPF Rules, however, the inquiry proceedings were not conducted in a fair and proper manner, as neither the inquiry report dated 27.10.2001 was given to the petitioner's husband nor any show cause notice was issued to him, and on the basis of the said inquiry report, the punishing authority dismissed him from service vide order dated 05.12.2001 (Annexure P-3).

According to the learned counsel, aggrieved against this, the petitioner's husband preferred a statutory appeal and the same was also dismissed vide order dated 09.09.2002 (Annexure P-4), and thereafter on 18.11.2004, petitioner's husband died. Subsequently, the petitioner submitted a representation dated 18.04.2005 (Annexure P-6) against the order dated 09.09.2002 and prayed for treating the employee's absent period as a leave period and claimed retiral benefits w.e.f. 19.11.2004. The attention of the Court is drawn to the order dated 07.09.2005 (Annexure P-9) to contend that the said claim was also rejected by respondent No.5. Learned counsel has pointed out that though the petitioner had filed a Civil Writ Petition bearing No.7467 of 2007 for this relief, but the same was dismissed as withdrawn vide order dated 14.05.2010 (Annexure P-7) with liberty to challenge the order dated 22.03.2010 (Annexure P-8), whereby she was again intimated that she is not entitled to family pension, and the admissible payments as per rules have already been made. Learned counsel prays that considering the length of service of petitioner's husband for

approximately 27 years, a lenient view may be taken by directing the respondents to grant family pension to the petitioner (widow), therefore, through this writ petition, petitioner is seeking indulgence of this Court by invoking extraordinary writ jurisdiction under Article 226 Constitution of India.

The prayer is opposed by learned counsel for respondent-UOI, who while referring to reply argued that the petitioner's husband was granted 30 days earned leave, which expired in April, 2000, but he remained absent for a long period of 261 days, whereupon a departmental enquiry was held against him. He submits that the charges against the petitioner's husband were proved and the punishment of dismissal from service was inflicted upon him vide order dated 05.12.2001 (Annexure P-3). Learned counsel has further argued that though the petitioner's husband availed the remedy of appeal, but the same also failed vide order dated 09.09.2002 and thereafter, the petitioner's husband never raised any grievance till his death in November, 2004. According to him, the widow has attempted to revive the same issue for re-adjudication, but the authorities have rightly declined her representation, therefore, no interference is warranted by this Court.

After hearing the learned counsel and considering their submissions, it comes out that the petitioner's husband did not report on duty after expiry of his sanctioned earned leave and during his overstay period, he was also implicated in a criminal case resulting in his confinement in prison for a period of approximately five months. This fact is pleaded by the petitioner herself in para 4 of the writ petition that Kamal Singh remained in judicial custody w.e.f. 02.07.2000 to 07.12.2000.

Further, the respondents have given the details of the criminal case that

Kamal Singh during his absent period molested a girl, at GC, CRPF Campus, New Delhi on 24.06.2000 and for the said commission of offence, he was arrested by Delhi police on 02.07.2022. As per the stand of the official respondents, Constable Kamal Singh during inquiry proceedings, again absented from his duty without any justification and considering the gravity of the misconduct, the order of dismissal from service was passed against him. Concededly, during his life time, Kamal Singh never raised any grievance after dismissal of his statutory appeal on 09.09.2002 (Annexure P-4) and accepted the said decision. Of course, the widow had given a representation, but the same was initially declined vide order dated 07.09.2005 (Annexure P-9) and the order also contains details of admissible payments made to the widow.

Thus considering the above background, this Court does not find any merit in this writ petition, as the petitioner cannot re-agitate the issues relating to the service benefits of her husband, which were decided against the petitioner's husband and were accepted by him.

Resultantly, the writ petition fails and is dismissed.

03.05.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No