

**CM-18500-CWP-2023 in/and
CWP-1658-2016**

2023:PHHC:139396 1

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

(102+207)

**CM-18500-CWP-2023 in/and
CWP-1658-2016**

Date of Decision : November 02, 2023

Neetu

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sukhdev Singh Gopera, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-18500-CWP-2023

As prayed for, the application is allowed.

Replication to the written statement filed on behalf of respondents No. 3 and 4 along with Annexure P-13 is taken on record.

CWP-1658-2016

1. Learned counsel for the petitioner argues that in the present case, after the death of the husband of the petitioner, recovery has been effected while giving the service benefits to the petitioner in respect of the disciplinary proceedings which were pending against her husband at the time of his death, which action of the respondents is arbitrary and illegal as no order causing prejudice to a dead employee can be passed after his death and in the present case, the order of recovery has been passed after the death of the employee and impugned orders dated 19.05.2015 and 24.06.2015 (Annexures P-8 and P-9) have been passed not only after the retirement but

after the death of the husband of the petitioner, which is arbitrary and illegal.

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

3. As per the settled principle of law settled by this Court in ***CWP No.21917 of 2016 titled as Shiksha Devi vs. Haryana State Federation of Consumers Co-operative Wholesale Stores Ltd, decided on 02.08.2022***, no order causing prejudice to a dead employee can be passed. The relevant paragraph of the said 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.”

4. Learned State counsel has not been able to dispute the fact that the impugned orders dated 19.05.2015 and 24.06.2015 (Annexures P-8 and P-9) were passed after the retirement of the husband of the petitioner as well as after he died but submits that notices for recovery had already been issued while he was employed but the same were yet to be finalized before

5. As far as the contention of the learned State counsel that the charge-sheet was served upon the late husband of the petitioner prior to his death, though the order was passed after his death, should be treated as valid order, the said argument is to be considered in light of the settled principle of law. The disciplinary proceedings, only concludes when the order of punishment is passed. In case, an employee dies prior to the conclusion of the disciplinary proceedings, the said disciplinary proceedings abate. Hence, once the late husband of the petitioner died, the disciplinary proceedings pending against him abated and therefore, there was no jurisdiction with the respondents to pass an order imposing punishment after the proceedings got abated.

6. The arguments raised by the learned State counsel cannot be accepted in view of the above mentioned facts and law.

7. Keeping in view the facts and circumstances of the present case, where it is a conceded fact that the impugned orders were passed after the death of the employee concerned that the question of law raised in the present petition is covered by *Shiksha Devi's case (supra)* and the present petition is also disposed of in same terms. Orders dated 19.05.2015 and 24.06.2015 (Annexures P-8 and P-9) are set aside. Any recovery made from the petitioner be refunded back to the petitioner within a period of two months from the receipt of copy of this order.

8. The present writ petition is allowed in above terms.

November 02, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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