

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(255)

CWP-33561-2019

Date of Decision : October 05, 2023

Smt. Shanti Devi

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jagjeet Beniwal, Advocate, for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the prayer of the petitioner is for setting aside the order dated 10.05.2019 (Annexure P-4) by which, the appeal filed by the late husband of the petitioner challenging the order terminating his services was dismissed on the ground that the employee concerned i.e. husband of the petitioner has died.

2. Learned counsel for the petitioner submits that the appeal should have been decided on merits especially in view of the fact that in case the order impugned in appeal is set aside, the petitioner being the legal heir, will be entitled for certain service benefits, hence, simple dismissing of the appeal by the Appellate Authority only on the ground that concerned employee has died, is liable to be set aside.

3. Learned State counsel submits that the appeal filed challenging

the order of termination does not survive as the employee concerned has died and therefore, the order dated 10.05.2019 (Annexure P-4) is perfectly valid and legal.

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

5. Once an appeal has been filed against an order causing prejudice to an employee, the said appeal is to be decided on merits unless and until the Rule describes that the appeal will abate upon the death of an employee.

6. In the present case, in case the order in appeal dated 07.12.2012 is set aside, the petitioner will become entitled for service benefits in respect of the service rendered by her late husband, hence, the respondents were under obligation to decide the said appeal on merits rather than dismissing it summarily on the ground that the appellant has died during the pendency of the appeal.

7. Consequently, the impugned order dated 10.05.2019 (Annexure P-4) is set aside. The Appellate Authority is directed to pass a fresh order in the appeal on merits within a period of two months from the receipt of copy of this order

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

October 05, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No