

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CWP-11735-2015 (O&M)
Date of Decision :16.01.2024

Captain Kapil Khatana (since deceased)
through LRs

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashwani Talwar, Advocate for the petitioner.
Mr. Saurabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to order dated 08.05.2015 (Annexure P/7) passed by the respondents by which, the post i.e. Junior Pilot on which the petitioner was working, was abolished.
2. Learned counsel for the petitioner submits that though, the act of abolishing the post is within the jurisdiction of the respondents and there is no malafide attached with regard to the order impugned in the present petition, but once the said post was revived by the respondents on 10.09.2018, the petitioner should have been reinstated on the said post and thereafter, granted all the benefits.
3. Learned counsel for the respondents submits that in the present case, keeping in view the fact that there was only one helicopter available with the Government of Haryana, which met with an accident and got

destroyed, there was no post available with the respondents on which the petitioner could have been allowed to continue in service and further though, the post in question was revived by the respondents in the year 2018 but unfortunately by the said date, the petitioner had already died hence, the question of appointing the petitioner upon revival of the said post does not arise.

4. Learned counsel for the respondents further submits that upto the date the petitioner had worked, he had already been paid all the benefits including leave encashment, GIS, pension & family pension as well as gratuity and, therefore, no further benefit can be given to the petitioner.

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

6. It is a settled principle of law that the Courts cannot go into the act of abolishing the post unless and until the same prima facie appears to be a malafide decision. In the present case, it is a conceded position that the post in question upon which the petitioner was discharging his duties became surplus as the helicopter, which was being flown by the petitioner met with an accident and got destroyed and there was no other helicopter available on which the services of the petitioner could be utilized. That being the factual position, no ground for setting aside the order dated 08.05.2015 (Annexure P/7) abolishing the post and terminating the services of the petitioner arises.

7. As far as the claim of the petitioner for allowing the petitioner to join the service upon revival of the post in the year 2018 on which the petitioner was working, the same is also not possible as before the post in question could be revived by the respondents, the petitioner had already

died hence, it cannot be said that till revival of the post, the petitioner will be treated in service for computing his pensionary benefits.

8. Keeping in view the facts and circumstances of the present case, wherein, the respondents vide letter dated 16.07.2018 informed the Office of Advocate General, Haryana that the petitioner has already been paid pensionary benefits including leave encashment, GIS, pension & family pension after his death, no cause of action survives in the present petition to be adjudicated by this Court any further and the present writ petition is accordingly dismissed.

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

January 16, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No