

212 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARHCWP-25279-2018 (O&M)  
Date of Decision:31.01.2024

Darshna Devi

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. Sandeep Singal, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl.A.G. Haryana.

Mr. Aman Bahri, Advocate  
for respondents No.2 to 4.

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**JASGURPREET SINGH PURI J.(Oral)**

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *Mandamus* directing the respondents to count the daily-wage service of the husband of the petitioner from April 1987 to 30.09.2003 as qualifying service for the purpose of pension and retiral benefits and consequently release the said benefits with effect from the date of death of the husband of the petitioner i.e.from 18.03.2014 with full arrears thereof alongwith interest @ 9% per annum.

2. The brief facts of the present case as per the learned counsel for the petitioner are that the husband of the petitioner was appointed as Beldar with the respondents in the year 1987 and his services were thereafter regularized on 01.10.2003. Thereafter, the husband of the petitioner died on 18.03.2014 and in this way the present petitioner who is the widow of the deceased employee was entitled to all the pensionary and retiral benefits.

After the death of the husband of the petitioner, the petitioner was granted

the pensionary and retiral benefits without any delay but without counting

the services rendered by the husband of the petitioner while he was working on daily wages. Learned counsel for the petitioner submitted that the law with regard to counting of daily wage basis services for the purposes of pensionary benefits is well settled and he referred to a Full Bench judgment passed by this Court in *Kesar Chand vs. State of Punjab through the Secretary, PWD B&R, Chandigarh and others 1988(5) SLR 27* .

3. He further submitted that in the reply which has been filed by respondents No.2 to 4 it has been so stated that the husband of the petitioner was recruited as Beldar on 10.07.1993 and the petitioner was not appointed in April 1987. He submitted that the aforesaid factual position so stated in the reply filed by respondents No.2 to 4 is factually incorrect. To substantiate his arguments, he referred to a document which has been attached along with the replication to state that the husband of the petitioner had rather filed an application under the Industrial Dispute Act. 1947, before the Industrial Tribunal-cum-Labour Court, Rohtak, seeking prayer for equal pay for equal work pertaining to other Beldar and thereafter a compromise was arrived between the parties wherein it was so compromised that the husband of the petitioner will be granted equal pay for equal work pertaining to the other ad hoc Beldar and thereafter the application before the learned Labour Court, Rohtak, was dismissed on the basis of compromise. Learned counsel for the petitioner also referred to a letter dated 27.01.1992 (Annexure P-6 ) issued by the Municipal Committee, Rohtak in which it has been mentioned that the husband of the petitioner had received pay from April 1987 to 31.09.1991 and was working continuously on the post of daily wage Beldar from April 1987 to 31.09.1991 in Municipal Committee, Rohtak. Thereafter the learned counsel for the petitioner referred to another

to Deputy Commissioner, Rohtak and again it was reiterated that the husband of the petitioner had been working since 1987 and his work was satisfactory. The aforesaid letter was written because the husband of the petitioner had earlier stated that he will withdraw his case, in case he is granted the benefits of equal pay for equal work and in this context the letter was written by Secretary, Municipal Committee, Rohtak to Deputy Commissioner, Rohtak. Learned counsel for the petitioner has referred to another letter issued by the Executive Officer, Municipal Committee, Rohtak to Deputy Commissioner, Rohtak vide Annexure P-8 again reiterating the same position that the husband of the petitioner had been working from April 1987. He further submitted that since a compromise was arrived between the parties for grant of equal pay for equal work w.e.f. April 1987, the husband of the petitioner had withdrawn his application from Labour Court, Rohtak, vide Annexure P-9. He submitted that in this way the averment made in the reply filed by respondents No.2 to 4 that the husband of the petitioner was appointed on daily wage basis in the year 1993 is factually incorrect. He submitted that in view of the aforesaid factual position the husband of the petitioner was entitled to the benefit of counting his services rendered on daily wage basis w.e.f. 1987 in view of the aforesaid judgement passed by this Court in ***Kesar Chand's case*** (supra).

4. On the other hand, Mr. Aman Bahri, learned counsel for respondents No.2 to 4 has submitted that so far as the proposition of law that when a person has been appointed on daily wage basis and thereafter his services are regularized then his services rendered on daily wage basis are to be counted for pensionary benefits, is concerned the same is not disputed since the law has already been settled by the aforesaid judgement in ***Kesar***

respondents No.2 to 4 is concerned, it has been so stated that the husband of the petitioner was initially appointed in the year 1993 but as per the documents which have been attached with the replication as aforesaid from Annexures P-6 to P-9, the same has not been referred to in the written statement.

5. I have heard learned counsel for the parties.

6. The short question involved in the present case is that whether the petitioner is entitled for the benefit of service rendered by the husband of the petitioner on daily wage basis till his regularization and after the death of the husband of the petitioner, the same is no longer *res-integra* and law has been settled by a Full Bench judgment of this Court in ***Kesar Chand's case (supra)***.

7. The aforesaid proposition of law as applicable to the husband of the present petitioner has not been disputed by learned counsel for the respondents No.2 to 4. Now the only dispute with regard to the present petitioner is that as to whether the husband of the petitioner was initially appointed on April 1987 or on 10.07.1993 as per the written statement.

8. A perusal of the documents which have been attached alongwith the replication (Annexures P-6 to P-9) would show that it is very clear that the Municipal Committee, Rohtak, itself had repeatedly so stated in all the documents including Form-K-2 of Rule 61-A (2) that the husband of the petitioner had been receiving salary from April 1987 and he had been working as Beldar and his work and conduct was satisfactory. Therefore, it is very clear that factual position which has been stated in the written statement filed by respondents No.2 to 4 that the husband of the petitioner had joined on daily wage basis in the year 1993 appears to be incorrect.

allowed. The respondents No.2 to 4 are directed to count the period of service rendered by the husband of the petitioner on daily wage basis w.e.f. April, 1987 till the date of his regularization for pension and other retiral benefits and fix the notional pension of the husband of the petitioner and thereafter to fix the family pension and other benefits which are to be granted to the petitioner being widow of the deceased employee. Thereafter, all the consequential benefits shall be paid to the petitioner within a period of three months from today alongwith the interest @ 6% per annum.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**31.01.2024**  
*shweta*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No