



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-27447-2019
Date of Decision:23.05.2024

Gurmeet Kaur

....Petitioner

Versus

State of Punjab and others

.....Respondents

CWP-19567-2020

Sunil Kumar

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON’BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. V.K. Shukla, Advocate,
for the petitioner in CWP-27447 of 2019.

Mr. Navjot Singh, Advocate,
for the petitioner in CWP-19567 of 2020.

Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY J. (Oral)

1. These cases involve similar issues and therefore, are being
disposed of together by this common judgment. For sake of brevity, facts are
being taken from CWP-27447-2019.
2. The present petition has been filed under Articles 226/227 of the
Constitution of India for issuance of a writ in the nature of certiorari/mandamus



for quashing the impugned order dated 28.08.2019, Annexure P-10 declining the claim of the petitioner qua family pension, gratuity, leave encashment and employment on compassionate grounds.

3. Learned counsel submits that the husband of the petitioner was appointed as Warder on temporary basis in regular pay scale of Rs.950-1800/- through Employment Exchange vide order dated 25.04.1991, Annexure P-1 and he was allotted Belt No.2333 and thereafter service book of the husband of the petitioner was prepared and maintained and was allotted GP Fund Account No.Pb/Jail/Wrd 2455 and annual statements of Provident Fund for the years 2012 to 2015 have been appended as Annexures P-3 to P-5. Throughout her service career, she was also given annual increments which are depicted as per the salary certificates Annexures P-6 and P-7. He submits that the husband of the petitioner unfortunately passed away on 15.03.2016, having rendered service of 24 years and 10 months and his case even recommended for regularization of services as is admitted in the written statement recommended by the Committee constituted by the respondent-Department vide letter dated 17.05.2019. He further submits that the juniors of the petitioner had been regularized vide order dated 20.12.1994, Annexure P-2, who joined service between the years August 1991 till December 1992 and the claim of the petitioner for family pension, leave encashment and appointment on compassionate ground has been denied only in view of the opinion that the services of the deceased employee cannot be regularized. He next submits that the case of the petitioner is squarely covered by the judgment of a Co-ordinate Bench of this Court in **Amarjit Kaur and another vs. State of Punjab and others**¹. The relevant part thereof reads thus:-

“The claim of the petitioners is covered by the said



proposition of law, if applied in the present case as well. The benefit of regularization policy was being declined to the petitioners on the ground that husband of petitioner No. 1 was short by 8 days service from completion of 3 years service on the date when Regularization Policy was issued on 23.01.2001 but, keeping in view the provisions of the Regularization Policy, which has been reproduced hereinbefore, three years period is not to be seen on the day of the Policy but the three years period can be seen even subsequently as the direction given in the Policy was to update the list of work charged, daily wage and other categories of workers as having completed 3 years of service from time to time.

Even otherwise, the late husband of petitioner No. 1 had worked for approximately two decades before he, unfortunately, died while in service. It can be said from the said fact that the work being discharged by the late husband of petitioner No. 1 was not a stop gap arrangement but was required. An employee working on a regular establishment, rendering 10 years of service become eligible for the grant of pensionary benefits, whereas, the late husband of petitioner No. 1, who had worked for 19 years is being denied the said benefit by the respondents. The Hon'ble Supreme Court of India while deciding Civil Appeal No. 6798 of 2019 titled as **Prem Singh Vs. State of Uttar Pradesh and others**, decided on 02.09.2019 held that being a Welfare State, the employees should not be kept continuously either on part time basis or on work-charge basis, their services should be regularized as one time measure. The relevant paragraph 35 of the said judgment is as under:-

“35. There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized under the Government instructions and even as per the decision of this Court in Secretary, State of Karnataka & Ors. v. Uma Devi, 2006 (4) SCC 1. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of



regularisation as others have been regularised, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension.”

Keeping in view the settled principle of law settled by the Hon'ble Surpeme Court of India, in the present case, as the late husband of petitioner No. 1 had discharged the duties for approximately two decades, he is entitled for consideration for regularization of his services as a one time measure keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in Prem Singh's case (supra).

Keeping in view the facts and circumstances of this case coupled with the settled principle of law noticed hereinbefore, the claim of the petitioners is liable to be allowed and is allowed accordingly.

Let respondents pass appropriate order regularizing the services of the late husband of petitioner No. 1 keeping in view the Policy dated 23.01.2001 (Annexure P-2) from an appropriate date mentioned in the said Policy and thereafter, consider the claim of the petitioners for the grant of the service benefits in respect of the service rendered by the late husband of petitioner No. 1. Let the order be complied within a period of two months from the receipt of copy of this order and whatever petitioners are found entitled for with respect to the service rendered by the late husband of petitioner No. 1 after regularizing the same as directed in this order, be released to the petitioners within a period of four weeks thereafter.

The petitioners in case intend to get compassionate appointment thereon, they will be free to apply for the same after appropriate order under this order is passed by the respondents and in case any such application is filed, the respondents will be free to decide the same in accordance with law by passing an appropriate order.”

4. Learned State counsel despite his best efforts has not been able to



controvert the factual position and draw out any distinctive aspects in the
aforementioned judgment or cite any contrary law.

- 5. In view of the aforesaid, both the writ petitions are disposed of in
terms of **Amarjit Kaur** (supra).
- 6. A copy of this order be placed on the other connected case file.

(AMAN CHAUDHARY)
JUDGE

May 23, 2024
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Whether speaking : Yes/No
Whether reportable : Yes/No