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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-5006-2006

Date of Decision:27.11.2025

NIRMLA DEVI

...Petitioner

Versus

UTTAR HARYANA BIJLI VITRAN NIGAM LTD. & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishal Aggarwal, Advocate with
Mr. Kritik Jain, Advocate
for the petitioner.

Mr. Rajesh Gaur, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the impugned order dated 02.12.2005 (Annexure P-9) and directing the respondents to regularize the services of the husband of the petitioner, grant family pension and to release the arrears of family pension, ex-gratia grant, gratuity and leave encashment to the petitioner along with the interest.

2. Learned counsel for the petitioner *inter alia* contends that the deceased-husband of the petitioner was appointed on daily wage in the year 1985 and his services were terminated in the year 1987. The petitioner approached the Labour Court which granted the relief of continuity of service with full wages on 01.01.1989. The respondent-Corporation filed CWP-11728-

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1992 and petitioner's husband was allowed to join duty in January, 1993. However, the financial benefits were reduced to 40%. The husband of the petitioner went missing on 19.01.1995 and an FIR was registered in this regard on 09.11.1995. On 07.03.1996, the Government of Haryana issued a policy to regularize the services of those employees, who have completed five years. The petitioner applied for compassionate appointment in 2001. Respondent No.4 declined the retiral claims of the deceased-husband of the petitioner and petitioner approached this Court by filing CWP-10351-2005, which was disposed of with a direction to decide the claim of petitioner within a period of 2 months. In purported compliance, the respondent-Corporation rejected the claim of the petitioner.

3. On the other hand, learned counsel for the respondents submits that the veracity of the FIR registered by the petitioner regarding the missing of her husband was thoroughly examined by the Competent Authority and an untraced report was presented on 25.05.1998. The claim with regard to the retiral benefits is liable to be rejected in view of the Full Bench judgment of this Court in ***Smt. Sita Devi vs. State of Haryana and others 2013 (4) PLR 499***. Further, there was a delay in registration of the FIR. Admittedly the FIR was registered after 10 months from the date on which the husband of the petitioner went missing. Moreover, the claim raised by the petitioner in the year 2001 and filing of the writ petition in the year 2005 is hopelessly time barred and suffer from the vice of delay and latches.

4. I have heard the submissions made by learned counsel for the parties and have perused the record with their able assistance.

5. After perusal of the record, it transpires that the husband of the petitioner went missing on 19.01.1995, whereas she applied for compassionate



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appointment only in the year 2001 and thereafter she filed CWP-10351-2005.

The claim raised by the petitioner is not only barred by delay and laches but it is also the settled law that an employee becomes entitled to pension only upon rendering qualifying pensionable service as laid down by the Apex Court in ***State of Haryana and others vs. Shakuntla Devi 2008 (15) SCC 380.***

6. The Full Bench of this Court has made the following observations in ***Sita Devi's case (supra):***

(6) Learned counsel for the respondents has also relied upon the judgement of the Hon'ble Supreme Court in State of Haryana and others versus Shakuntala Devi (3), where in para 31 it has been explained as to what is meant by substantive and permanent employment. It is only when an employee renders service in pensionable service, would he be entitled to pension, as held by the Hon'ble Supreme Court. In paras 31 to 33 of the said judgement, it was held as under:-

31. Clause 3.17 of the Rules in no uncertain term explains as to what is meant by substantive and permanent employment. The contention of the counsel that it applies only to a person who has retired is not correct because holding of a substantive permanent post on the date of retirement is followed by the words "his temporary or officiating service under the State Government". Confirmation in service, therefore, whether before retirement or before death must be held to be sine qua non for becoming eligible for grant of pension. Only when an employee renders service in a pensionable service, would he be entitled to pension.

32. Only by reason of fulfillment of the conditions laid down under the contract of service and/or the statutory rules governing the same, can a person become a full fledged Government employee. When the terms and conditions of service are governed by a statute or statutory rules, no doubt the same would prevail over the contract of employment but



then for the said purpose. the employee concerned must show that the appointment was regular in name and on a post which is a cadre post. The Government employee acquires status only when he becomes entitled thereto by reason of a statute or by his employer declaring him to be entitled therefore

33. *When a regularization scheme was framed (assuming that such a scheme is valid and constitutional) the employee must be regularized. At least he must acquire a right to be regularized in service"*

(7) *A reference is also made to the judgement in Uttar Haryana Bijli Vitran Nigam Ltd. and others versus Surji Devi (4), where the same rule was in question as in the present case. The deceased had been appointed on a work-charge basis with services not being regularized. It was held that the statutory provisions debarred grant of family pension in favour of the family members as the deceased employee was not a permanent or temporary employee. It was further observed that sentiments and sympathy alone cannot be a ground for taking a view different from what is permissible in law and the period during which an employee worked as a work-charge employee could be taken into consideration only when his services are regularized and he becomes permanent and not otherwise.*

(8) *In our view, the issue is no more res-integra in view of the various judicial pronouncements and, thus, it certainly cannot be said that the petitioner as a legal heir of her deceased daughter would be entitled to family pension since the services of the petitioner (sic) were never regularized. We answer the reference accordingly.*

(9) *In view of the aforesaid position and the answer to the reference. nothing really survives in the petition, which is liable to be dismissed.*

(10) *However, before parting with the matter, we would like to state that though for a judicial pronouncement sentiments*



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and sympathy alone cannot be a ground, such aspects can always be considered by the respondent-authorities. This is so as it is not as if the daughter of the deceased would have continued to work in the same capacity as she was at the time of her unfortunate demise, but she would have been entitled to regularization as per the own policy of the respondents on 01.10.2003. She was just a little less than three months short of being regularized and there was nothing to show that she would have been otherwise dis-entitled. Under this factual situation, it will be for the respondents to see if they are willing to consider the case of the petitioner for some kind of pension or assistance which may ameliorate the suffering of the petitioner.

(11) The petition accordingly stands dismissed in terms aforesaid."

7. In the wake of above discussion and findings, the present petition stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

27.11.2025
P.Bhatt

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No