



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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LPA-1527-2024 (O&M)
Reserved on : 31.01.2025
Pronounced on : 06.05.2025

Amarjit Kaur

...Petitioners

Versus

Punjab State Power Corporation Ltd. and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. A.K. Viridi, Advocate for the appellant.

Ms. Eknoor Sara, Advocate for the respondents/PSPCL.

VIKAS SURI, J.

1. This intra-court appeal under clause X of the Letters Patent has been preferred by the writ petitioner - Amarjit Kaur aggrieved by the judgement dated 17.07.2023, passed by the learned single Judge in CWP-12524-2023, titled as *Amarjit Kaur vs. Punjab state power Corporation Ltd. and another*, whereby her entreated claim to correct the description of death of her husband in the records and consequentially grant special pensionary benefits, has been declined.

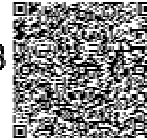
Factual Background

2. The appellant's husband, namely Sukhraj Singh, had joined the services of Punjab State Power Corporation Limited (for short 'PSPCL') on 16.01.1992, as a work charge T-mate and subsequently was



appointed as Assistant Lineman (for short 'ALM') on regular basis w.e.f. 23.11.2005. On 12.01.2014, he went on duty from his home on his motorcycle, but did not return till night and on the following day at about 06.00 A.M. was found dead owing to a road accident, having been struck by an unknown vehicle, on the road leading from Jagatpura to village Dhand. Resultantly, FIR No.04 dated 13.01.2014 u/s 304-A, 279, 427 IPC was registered in police station Sarai Amanat Khan, Taran Taran, District Amritsar City (Annexure P-1). At the time of death Sukhraj Singh was aged about 49 years.

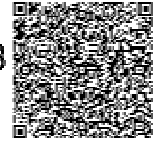
2.1 It is the case of the appellant/writ petitioner that her husband, viz. Sukhraj Singh, had died in harness on 12.01.2014, owing to a road accident while on duty. The surviving heirs, i.e., the appellant and her two sons, namely Gurpreet Singh and Manpreet Singh, had sought benefits under the prevalent policy of PSPCL. The application of Manpreet Singh for appointment on compassionate ground, as per the instructions of the Punjab Government, was recommended by the office vide Annexure P-4. The appellant had also sought Special pensionary benefits under Pension Circular No.1/86 dated 24.06.1986 (Annexure P-2), whereby it is provided that the families of regular employees who died while performing their official duties and became victims of fatal accidents, will be granted special pensionary benefits, which will be equal to the last pay drawn upto the date when the deceased employee would have retired on attaining superannuation. On the Chief Office PSPCL Amritsar, having brought to the notice of the appellant that the



reason of death of her husband had been recorded as 'sudden', she represented for correction in the official records relating to the deceased Sukhraj Singh, Assistant Line Man vide communication dated 29.11.2015 (Annexure P-3). It was reiterated therein that the appellant's husband had died owing to a road accident during duty time. An attested copy of the FIR and Post Mortem Report was also appended therewith.

2.2 The respondent-Corporation while dealing with the application for grant of compassionate appointment/solatium moved by one of the son's of the deceased employee, had certified against the relevant column that the deceased Sukhraj Singh, ALM, had died during duty and on that basis his son Manpreet Singh was given appointment on the regular post of RTM. As the respondents had not granted special pensionary benefits to the appellant, she pursued the matter with the department. The Sub Divisional Officer (for short, 'SDO') vide letter bearing Memo No.627 dated 20.09.2021 (Annexure P-5) forwarded the relevant documents of the dependants of the deceased to the Additional Superintending Engineer/Distribution for consideration of the said documents as per instructions of the department. In response thereto, vide letter dated 01.11.2021 (Annexure P-6) the matter was remitted back to the SDO concerned seeking candid remarks whether on the fatal day of accident, the deceased employee was present on duty or not and if the death had occurred during duty hours, then at what time the employee was relieved.

2.3 Thereafter, as no further action was initiated relating to the



supra matter by the respondent-PSPCL, the appellant got served a legal notice dated 16.04.2022. In reply to the said legal notice, the second respondent vide its letter bearing Memo No.2614 dated 27.05.2022 (Annexure P-7) concluded that as per statements recorded by in-charge of area, Sh. Narinder Singh, JE and Sh. Jagtar Singh, ALM, the deceased employee was relieved from duty at 5.00 PM on 12.01.2014 and he went to his house. Further, keeping in view the affidavit of the writ petitioner – Smt. Amarjit Kaur and statements of other family members, it was maintained that the deceased had died suddenly and the department had paid the entitled service benefits, while the family pension is being paid.

2.4. The appellant moved the writ court for issuance of a mandamus directing the respondents to correct the description of death, i.e. death during performing duty in accident, in their records relating to the death of Sukhraj Singh ALM and consequently grant Special Service Pensionary Benefits as per Circular No.1/86 (Annexure P-2) in lieu of already granted liberalized family pension benefits.

2.5 On an advance copy of the writ petition having been served upon the respondents, they put in appearance through counsel at the preliminary hearing itself and instead of filing any response to the writ petition, chose to oppose the same by referring to the reply to the legal notice (Annexure P-7).

3. Placing reliance upon the oral submissions advanced on behalf of the respondents based upon the contents of the reply to the legal notice and noticing that there was variance in the cause of death



disclosed by the two sons of the petitioner, while making their independent claims for appointment on compassionate ground, the learned single Judge vide judgment dated 17.07.2023, dismissed the writ petition.

4. Aggrieved by the aforesaid judgment, the appellant has preferred the instant intra-court appeal along with an application under Order 41 Rule 27, Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') for leading additional evidence, which has been appended as Annexures A-1 to A-15 with the said application.

4.1 At the preliminary hearing of the instant appeal, learned counsel for the appellant sought time to file relevant material to establish that the death took place within the sphere of duty and accordingly, a miscellaneous application was filed to place on record the relevant regulation of Service Regulation, 1972, office orders, RTI application and the Affidavit dated 13.09.2024 of one Tarsem Singh, as Annexures A-16 to A-22.

Contentions of the Parties

5. Learned counsel for the appellant has argued that the writ petition has been summarily dismissed without seeking any reply from the respondents and by accepting the reply to the legal notice as gospel truth. While referring to the various documents sought to be brought on record at the appellate stage, it is submitted that a perusal of the said documents belies the stand taken by the respondents and the assertions made in their supra reply to the legal notice. It is further contended that



reliance has been placed on alleged statements of two officials, purported to be in-charge of the area, without the said statements having been placed on record before the learned single Judge or the official record that could form the basis of the said statements. Moreover, the appellant was never afforded any opportunity to cross-examine the said officials, to elicit the truth and as such the same ought not to have been relied upon. It is further contended that the writ petitioner/appellant has been deprived of a fair opportunity to show from the record of the respondents that the reply to the legal notice, relied upon by the respondents, does not record the correct factual position.

5.1 It is further contended on behalf of the appellant that the Post Mortem Report (PMR) (Annexure A-1) records the date and time of death as 12.01.2014 at 10.05 PM. The cause of death recorded therein is due to head injury leading to injury to vital organs i.e. brain along with haemorrhage and shock which is sufficient to cause death in the ordinary course of nature. The Post Mortem was conducted on 13.01.2014, i.e. the very next day of death of the husband of the writ petitioner. The said record cannot be manufactured and proves beyond doubt that the cause of death of the deceased was not sudden but due to a fatal accident. Learned counsel for the appellant would next argue that the official communication dated 05.01.2016 (Annexure A-4) by the SDO concerned to the Additional SE/Distribution categorically records that Sukhraj Singh, ALM died on 12.01.2014 due to a road accident while on duty. Reference is also made to the Affidavit dated 13.09.2024



(Annexure A-19), which is contrary to the narration of the alleged in-charge of the area. Counsel would also refer to the affidavit dated 29.09.2015 (Annexure A-6) sworn by the writ petitioner and submitted to the department at the relevant time, wherein it is deposed that her husband had died in a road accident and the cause of death written in the affidavit of one of the family member as 'sudden' is due to a typing error. It is further argued that one typographical mistake, particularly one not made by the writ petitioner, cannot be held against her, especially when the other over whelming record indicates otherwise. The representations dated 16.07.2021 (Annexure A-8) and 07.04.2022 (Annexure A-9) have not even been touched by the respondents. Hence, grave injustice has been meted out to the appellant.

6. Per contra, learned counsel for the respondents defended the impugned judgment passed by the learned single Judge and has laid much emphasis upon the reply to the legal notice (Annexure P-7). Adverting to the additional material placed on record in the instant appeal, it is contended on behalf of the respondents that they had no occasion to respond to the same and hence, the same be not taken into reckoning even if most of the said material is from the records of the respondent-Corporation.

7. We have heard learned counsel for the parties at some length and perused the material placed on record with their able assistance.

8. The employment, designation and death of Shukraj Singh,



ALM is not in dispute. The main bone of contention raised before us is the cause of death and whether it occurred when the deceased was on duty. The above two aspects are argued to be the main considerations in view of the stipulations in the Pension Circular No.1/86 dated 24.06.1986 (Annexure P-2) for granting special pensionary benefits to the families of regular board employees who die while performing official duties and became victims of fatal accident while on duty.

9. Admittedly, most of the documents placed on the record after passing of the impugned judgment are from the official record of the respondents being office communications, office orders, regulations, First Information Report, Post Mortem Report and other material submitted by the writ petitioner to the respondent department. However, the said material was not available before the learned single Judge nor the same has been dealt with by the respondents in any communication or response rejecting the same. Nothing to the contrary has been brought to our notice by learned counsel for the respondents.

10. In view of the aforesaid, in our considered opinion, both the sides deserve to be granted an adequate opportunity to build their case on the basis of respective record relied upon while granting an opportunity to the other side to cross-examine the officials whose ocular deposition is sought to be relied upon. Keeping in view that the writ petition was disposed of in limine, without calling for a response from the respondent department and much material has been brought on record thereafter, which prima facie is contrary to the finding does not



support the finding recorded by the learned single Judge in the impugned judgment.

Final order of this Court

11. In aftermath, this Letters Patent Appeal is allowed and the impugned judgment dated 17.07.2023 passed by the learned single Judge is set aside and the matter is remanded back to the respondent department, to pass an order afresh after considering all the material placed on record of the present appeal. Needless to say, that the same would be done only after affording an opportunity of personal hearing to the writ petitioner/appellant. The parties would be at liberty to adduce any other cogent evidence to substantiate their respective stand and in case reliance is to be placed upon any statement(s), the same would be permissible only after an opportunity to cross-examine the witness/official suffering such statement, is afforded to the other party. The respondents shall forthwith fix a date for submission of additional documents or supplemental pleadings, if any, and thereafter proceed to pass a speaking order as aforesaid, expeditiously, in accordance with law. Needless to observe that in case the writ petitioner is still aggrieved by the decision so taken, it would be open to her to avail judicial redress thereagainst.

12. The aforesaid exercise be completed with a period of four months from the date a copy of this order is served upon/produced before the respondent-Corporation.



13. As the instant appeal is being disposed of and the matter is remanded to the authorities concerned for decision afresh after examining all record, the application (CM-3580-LPA-2024) for condonation of delay of 221 days in filing the appeal is allowed, for the reasons set out therein, supported by affidavit of the appellant-applicant.

14. Pending application(s), if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

May 06, 2025
sumit.k

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