



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

LPA No.439 of 2025 (O&M)

Date of Decision: 13.02.2025

Smt. Darshana

...Appellant

Versus

State of Haryana and others

...Respondents

**CORAM: *HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA*
*HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Present:- Mr. Pawan Kumar Jangra, Advocate
 for the appellant.

SANJEEV PRAKASH SHARMA, J.(Oral)

CM No.1123-LPA of 2025

For the reasons mentioned in the application, the same is allowed and the delay of 39 days in re-filing the present appeal is condoned.

LPA No.439 of 2025

This is an LPA preferred against the judgment/order dated 25.10.2024 passed by learned Single Judge, whereby learned Single Judge has rejected the writ petition filed by the appellant-writ petitioner, claiming past services of her deceased husband from 01.01.1986 to 01.09.1992 rendered on daily wage basis before being regularized on the post vide order dated 08.10.1992.

2. A specific query was raised to learned counsel for the appellant as to why the writ petitioner did not prefer the petition and why her husband



who was alive upto 2012 did not take up the matter with the authorities or filed the petition before the Court during his lifetime. It is stated that the husband of the writ petitioner was having no knowledge about the said claim and so far as the petitioner withdrew Civil Suit, is concerned, she came to know about the benefits to be given to her late husband and she filed the Civil Suit in the year 2021. However, the said Civil Suit filed at Hisar was withdrawn and the same was dismissed as withdrawn vide the order dated 25.01.2023. It is stated by learned counsel for the appellant that the Civil Suit was withdrawn as the Municipal Corporation, Hisar was not impleaded as a party and only the Public Health Engineering Department, Hisar was impleaded as a party. Learned counsel also submits that there is a notification issued by the Department which supports the claim of the writ petitioner and there is no limitation provided for filing of a writ petition before this Court. Learned counsel has also relied on a judgment rendered by this Court in **Kesar Chand vs. State of Punjab and others, 1988(5) SLR 27** to submit that the previous service has to be counted for the purpose of pension.

3. We have considered the submissions.

4. We find that the Civil Suit was dismissed as withdrawn as the writ petitioner stated that the Suit be withdrawn on technical grounds reserving her right to file afresh before the High Court. From the reading of the said order, it is apparent that there was no observation that the Suit has been filed wrongly before the concerned Court. One cannot be allowed to choose forums after one finds that the relief is not going to be granted by it.



It is apparent that the plaintiff-writ petitioner *suo moto* withdrew her case. Her right of filing afresh before the High Court is wholly misconceived as the writ petition is different from the civil proceedings initiated under CPC. Be that as it may, we also notice that the writ petitioner is claiming rights relating to her husband who during his lifetime did not claim the benefits of his daily wage services from 01.01.1986 to 01.09.1992. It is, therefore, apparent that he had abandoned his claim. The writ petitioner cannot claim better than what the original employee would have claimed. Learned Single Judge has apart from the afore-said reasons rejected the claim of the writ petitioner also noticing that the Executive Engineer in its letter dated 03.06.2021 in reply to the legal notice has stated that there is no record of the concerned official working on daily wages in the office of Municipal Corporation, Hisar w.e.f. 01.01.1986 to 01.09.1992 and the writ petition has been preferred after a long delay.

5. We find that the view taken by learned Single Judge does not warrant any interference and we agree with the same. The present appeal is accordingly dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

13.02.2025
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(MEENAKSHI I. MEHTA)
JUDGE

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