



2025:DHC:9539-DB



\$~16

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 29.10.2025

+ W.P.(C) 11868/2023
SMT. PREMWATI

.....Petitioner

Through: Mr.A.K. Bhakta, Adv. (through
VC)

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Ms.Uma Prasuna Bachu, SPC
for UOI

Mr.Vikrant Yadav, Adv. for
R-2 & R-3 with Mr.Manish
Bhawakar from Deptt.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 26.09.2022, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 1606/2019, titled ***Smt. Prem Wati v. Union of India & Anr.***, whereby the learned Tribunal partly allowed the O.A. filed by the petitioner herein.

2. The petitioner had approached the learned Tribunal seeking the following relief:

“(I) To quash and set aside the impugned Order dated 08.04.2019 and impugned order dated 28.02.2019 (Annexure A/1 (colly) and direct the respondents to release the death



cum retiral benefits and pensionary benefits to the applicant with reasonable interest.”

3. Admittedly, the husband of the petitioner was appointed as a Fitter on the Muster Roll basis with the respondents on 30.12.1979, upon sponsorship from the Employment Exchange, Kamla Market, New Delhi, by the Civil Construction Wing (CCW) of Doordarshan Bhawan, New Delhi. He was terminated from service on 26.12.1987, which he challenged before the Central Government Industrial Tribunal (in short, ‘CGIT’), New Delhi, in ID No. 3/1996.

4. The same was allowed by the learned CGIT *vide* an Award dated 27.12.2001, directing as under:

“20. In view of the matter, I find and held that the termination of the service of the workman was void and inoperative and it is declared that the workman shall be in continuous service with all consequential benefits with full back wages accessible to him under law.”

(Emphasis supplied)

5. The said Award was challenged by the respondents before this Court by way of W.P.(C) 934/2002, titled ***The Managt. of CCW v. Partap Singh***, which came to be dismissed by the learned Single Judge of this Court *vide* its Judgment dated 03.08.2004. The respondents thereafter preferred an appeal against the said Judgment, being LPA No. 1070/2004, titled ***Management of CCW v. Pratap Singh***. The same was partly allowed by a Division Bench of this Court, *vide* its Judgment dated 08.05.2007, wherein, while upholding the other directions passed by the learned CGIT, the direction to pay back wages for the period between 26.12.1987 to 08.12.1993 was set



aside. We quote from the Judgment of the Division Bench as under:

“14. At that stage the counsel appearing for the respondent-workman, on instructions received from the respondent-workman, submitted before us that the respondent-workman is ready and willing to forgo the wages for the period between 26th December, 1987 and 8th December, 1993. Ex facie there was delay on the part of the respondent-workman in raising the demand/claim and also in sending the notice seeking reference of the dispute regarding termination of his services. This was done after a period of about six years. The respondent-workman was fair in foregoing the payment of wages for the aforesaid period as there was delay on his part in raising the dispute because of which he has given up his claim for the benefit of back wages for the period 26th December, 1987 to 8th December, 1993.

15. Therefore, there has to be a modification in the order of the learned Single Judge to the aforesaid extent. In terms of the statement made, the back wages for the period between 26th December, 1987 and 8th December, 1993 shall not be paid to the respondent and would not be paid to him, which is agreed to and consented by the counsel for the respondent-workman, on instructions received from the workman.

xxxxxx

18. In terms of the aforesaid order, the appeals are allowed in part to the extent indicated above regarding non-payment of wages to the respondent-workman for the period from 26th December, 1987/ to 8th December, 1993. The arrear back wages for the remaining period shall be quantified and paid within three months in terms of the order of the learned Single Judge, failing which it would carry an interest of 9% from the date of the order of the learned Single Judge.”



6. The respondents challenged the said Judgment before the Supreme Court by way of Civil Appeal No.8943/2010, titled ***Management of CCW v. Pratap Singh***, which was disposed of by the Supreme Court holding as under:

“ These Appeals have been filed against the impugned common judgment and order of the High Court of Delhi dated 08.05.2007.

The facts have been set out in the impugned judgment and order and hence we are not repeating the same here.

On the facts of the case, while we uphold the direction for reinstatement of respondent Pratap Singh as a daily wager Fitter, we set aside the direction to award back wages except the amount already withdrawn by respondent Pratap Singh. However, the amount which is still lying in deposit will be refunded to the appellants in these Appeals.

The Appeals are disposed of accordingly. No costs.”

7. Pursuant to the Order passed by the Supreme Court, the husband of the petitioner was permitted to rejoin duty and was appointed as a daily wage Fitter on the Muster Roll, *vide* Order No. EE(C)/MHP/Office Order/2010-11/2634 dated 04.11.2010 issued by the respondents.

8. The husband of the petitioner thereafter filed O.A. No.4043/2014, seeking regularization of his services from the date on which his juniors were regularized. The said O.A. was allowed by the learned Tribunal, *vide* Order dated 30.11.2016, with the following observations and directions:



“15. In this manner, once it is proved on record that the applicant was reinstated with continuity of service with all consequential benefits, in that eventuality he will be deemed to be in continuous service of the Management of CCW for all intents and purposes. Hence, as the applicant has been working on the post of Fitter since 03.12.1997, so he is entitled for regularisation of his service, from the date of regularisation of service of similarly situated persons or his juniors. The mere fact that applicant was not allowed back wages by Hon'ble Apex Court, pales into insignificance, and is not a ground, much less cogent, to deny the indicated benefit of regularisation of service of the applicant. Sequel, he cannot possibly be non-suited for not supplying the specific dates when the services of his juniors were regularised, as contrary urged by the learned counsel for the respondents, because it is for the respondents to calculate the date of the regularisation of service of similarly situated persons or immediately juniors to the applicant, as the entire service records of all the employees is with the Management of CCW.

16. Therefore, it is held that the service of the applicant is liable to be regularised from the date the services of similarly situated persons or juniors to him, were regularised. The respondent-Management has just ignored the indicated claim of the applicant on speculative grounds, despite repeated representations and legal notice (Annexure A-1 Colly), for the reasons best known to it, which is not legally permissible. Thus, the contrary arguments of the learned counsel for the respondents stricto sensu deserve to be and are hereby repelled, in the obtaining circumstances of the case.”

17. In the light of the aforesaid reasons, the OA is hereby accepted. The respondents are directed to regularise the services of the applicant from the date of regularisation of services of his juniors/similar situated persons, in the department.”



9. In compliance with the aforesaid order, the respondents, *vide* Order dated 07.06.2017, regularized the services of the husband of the petitioner with effect from 01.11.1991.

10. The husband of the petitioner, *vide* representation dated 16.04.2018, sought voluntary retirement on account of his poor health, and unfortunately passed away on 17.05.2018.

11. The petitioner thereafter claimed death-cum-retirement gratuity and family pension from the respondents, which were declined by the respondents *vide* Orders dated 28.02.2019 and 08.04.2019, on the ground that the husband of the petitioner had not completed the requisite qualifying service of ten years, counted from 15.11.2010, the date on which he had been reinstated in service in compliance with the order passed by the Supreme Court.

12. Aggrieved by the said orders, the petitioner filed the above O.A. before the learned Tribunal.

13. The learned Tribunal agreed with the submissions of the respondents and held that, since the husband of the petitioner had been re-appointed only on 15.11.2010, in terms of Rules 13 and 14 of the Central Civil Services (Pension) Rules, he had not completed the requisite qualifying service as on the date of his death, that is, 17.05.2018, thereby disentitling the petitioner to the grant of family pension.

14. Insofar as the claim of the petitioner for death-cum-retirement gratuity is concerned, the learned Tribunal allowed the claim. The said direction regarding the grant of death gratuity has not been challenged



by the respondents, and the amount has since been released to the petitioner.

15. The limited grievance of the petitioner in the present petition is that, since the services of her husband were regularized with effect from 01.11.1991, he had completed the requisite qualifying service for the grant of pension, thereby entitling the petitioner to the benefit of family pension.

16. This is disputed by the learned counsel for the respondents, who submits that it is only the actual service rendered by the husband of the petitioner that has to be taken into account for the purpose of granting family pension. In the present case, the husband of the petitioner had rejoined service only on 15.11.2010 and, therefore, had not completed the requisite qualifying service as on the date of his death. The Supreme Court had also not granted him back wages, except for the amount he had already withdrawn from the sum deposited by the respondents pursuant to the *interim* orders. It is, therefore, submitted that the services of the husband of the petitioner can be counted only from 15.11.2010, though, in compliance with the order passed by the learned Tribunal, his services were deemed to have been regularized with effect from 01.11.1991.

17. We have considered the submissions made by the learned counsels for the parties.

18. From the above sequence of events, it would be evident that the husband of the petitioner, but for the termination which was ultimately found to be illegal, would have continued in service from 1979 onwards. The learned CGIT, by its Award dated 27.02.2001, had



directed his reinstatement with continuity of service and all consequential benefits, including back wages. It was only the component of back wages that was interfered with by the Supreme Court by applying the principle of 'no work, no pay'. However, this would not affect, in any manner, the entitlement of the husband of the petitioner to deemed continuity in service pursuant to the order of reinstatement. In fact, giving effect to this, the learned Tribunal, by its Order dated 30.11.2016, passed in O.A. No. 4043/2014, had directed the respondents to regularize the services of the husband of the petitioner with effect from the date his juniors were regularized. In compliance with the said order, the services of the husband of the petitioner were regularized with effect from 01.11.1991.

19. The husband of the petitioner must, therefore, be deemed to have been in continuous service at least from 01.11.1991, when his services were regularized. He admittedly passed away on 17.05.2018, thereby rendering the requisite qualifying service. Merely because the Supreme Court, by applying the principle of 'no work, no pay', did not grant him back wages for the period he actually remained out of service due to his illegal termination, would not disentitle him from having that period counted for the limited purpose of determining his qualifying service for the grant of family pension.

20. We may only again reiterate that the learned CGIT, by its Award dated 27.01.2001, had directed the reinstatement of the husband of the petitioner, declaring that the husband of the petitioner would be treated as being in continuous service with all consequential benefits. It was only the direction regarding the payment of back



2025:DHC:9539-DB



wages that was interfered with by the Supreme Court.

21. For the reasons stated hereinabove, we are unable to agree with the finding of the learned Tribunal in its Impugned Order. The same is, accordingly, set aside.

22. We hold that the husband of the petitioner had completed the requisite qualifying service for the grant of pension and that the petitioner is entitled to the benefit of family pension. The arrears thereof shall be released to the petitioner by the respondents within a period of ten weeks from today, along with interest at the rate of 6% per annum from the date the same became due and payable.

23. The respondents shall also pay the costs of Rs.15,000/- to the petitioner.

24. The petition is allowed in the above terms.

NAVIN CHAWLA, J

MADHU JAIN, J

OCTOBER 29, 2025/ns/DG