



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

RSA-3189-2001(O&M)

RESERVED ON : 23.12.2025

PRONOUNCED ON : 16.01.2026

UPLOADED ON : 16.01.2026

Shakuntla Devi and others

....Appellants

Versus

Punjab State Electricity Board and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Adeshwar Singh Pannu, Amicus Curiae, for the
appellants/plaintiffs.

Mr. P.I.P. Singh, Advocate for the respondents/defendants.

DEEPINDER SINGH NALWA, J.

1. The present Regular Second Appeal filed by the appellants/plaintiffs is directed against the judgment and decree dated 02.05.2001 passed by learned Additional District Judge, Patiala (hereinafter to be referred as 'Lower Appellate Court'), whereby the appeal filed by the respondents/defendants was partly accepted and the judgment and decree dated 15.03.2000 passed by the learned Additional Civil Judge (Senior Division), Patiala (hereinafter to be referred as 'trial Court'), was set aside to the extent of grant of family pension, gratuity and compassionate appointment whereas, claim in regard to payment of General Provident Fund and ex-gratia payment, the judgment and decree passed by the learned trial Court were maintained and affirmed. The appellants/plaintiffs have also challenged the judgment and decree dated



15.03.2000 passed by the learned trial Court whereby the suit filed by the appellants/plaintiffs was partly dismissed to the extent of arrears of salary and bonus.

2. The brief facts of the case are that Ram Karan, husband of appellant No.1 – Shakuntla Devi, was appointed on the post of Assistant Lineman in erstwhile Punjab State Electricity Board (hereinafter to be referred as ‘the Board’) on 08.05.1970. Ram Karan was diagnosed with the disease of T.B. and fell ill in the year 1980. As such, he was unable to attend the duties because of his illness and submitted an application to the Sub Divisional Officer (for short ‘SDO’) for grant of leave. However, the abovesaid application was not accepted by the Board. Executive Engineer (for short ‘XEN’), Nabha Division, Nabha, vide letter informed Ram Karan to resume his duties within a period of four days. However, Ram Karan was unable to resume his duties due to prolonged illness. As such, Ram Karan was removed from service vide order dated 02.07.1981. It transpires that after Ram Karan had recovered from his illness, he made a request to the XEN, Nabha Division, in the month of January, 1982, to allow him to join the duty. On request made by Ram Karan, he was employed on the post of A.L.M. on work-charged basis on 21.04.1982 and was posted at Nabha. Ram Karan again remained absent from duty w.e.f. 21.01.1983. Unfortunately, Ram Karan expired on 14.09.1985 while in service. No retiral benefits were released to the legal representatives of late Ram Karan after his death. As a consequence of this, various representations were submitted by legal representatives of late Ram Karan, however, no retiral benefits were released to the legal



representatives/heirs of late Ram Karan. The appellants/plaintiffs being the legal heirs of late Ram Karan filed a suit for declaration and mandatory injunction claiming retiral benefits i.e. family pension, gratuity, ex-gratia grant, G.P.F., compassionate appointment to one of the family member and arrears of salary for the month of September, 1985, along with bonus. The case of the appellants/plaintiffs in the suit was that late Ram Karan was removed from service due to illness which was beyond his control. The absence in the case of late Ram Karan was not willful and inquiry was also not held before passing of the order of removal, as such, the order of removal was bad in law and the service rendered by late Ram Karan on regular basis before his removal from service be taken into consideration for the purpose of retiral benefits and other benefits. It was also the case of appellants/plaintiffs that the interruption period from October, 1980 to 20.04.1982 should also be condoned.

3. The respondents/defendants duly filed written statement in the abovesaid suit. It was the case of the respondents/defendants that the suit filed by the appellants/plaintiffs was barred by limitation. It was also the case of the respondents/defendants that late Ram Karan remained absent from duty w.e.f. 01.10.1980 and did not join the duty in spite of the fact that various notices were issued in various newspapers. As a consequence of his absence, late Ram Karan was removed from service vide order dated 02.07.1981. It was also the case of respondents/defendants that as late Ram Karan was employed afresh purely on work-charged/temporary basis on the post of A.L.M. on



21.04.1982 initially for a period of three months and late Ram Karan again remained absent from duty w.e.f. 21.01.1983. As such, as per the relevant rules, the appellants/plaintiffs being the legal heirs of late Ram Karan were not entitled for grant of benefits as claimed in the suit. It was also the case of the respondents/defendants that family pension can be given in the case of regular employee only, in view of the relevant rules and Family Pension Scheme of 1964. It was also the case of respondents/defendants that gratuity is only admissible to the family of the deceased if the deceased employee has completed more than one year of service. In regard to grant of compassionate appointment was concerned, it was the case of respondents/defendants that the claim of compassionate appointment was already rejected by the respondents/defendants-Board vide order dated 04.10.1999 (Ex.D1) and as the said order of rejection was not challenged by the appellants/plaintiffs, as such, the claim for grant of compassionate appointment cannot be accepted.

4. From the pleading of the parties, following issues were framed by the learned trial Court :-

1. Whether the plaintiff is entitled to declaration as prayed for? OPP.
2. Whether the suit of the plaintiffs is time-barred? OPD.
3. Whether the plaintiff has no cause of action to file the suit? OPD.
4. Relief.



5. The learned trial Court vide judgment and decree dated 15.03.2000, partly decreed the suit in favour of the appellants/plaintiffs. As per the judgment and decree dated 15.03.2000 passed by the learned trial Court, the appellants/plaintiffs were held to be entitled for grant of family pension, ex-gratia gratuity and General Provident Fund. A perusal of the judgment and decree dated 15.03.2000 passed by the learned trial Court would show that the Court has held that late Ram Karan was appointed as ALM on 08.05.1970 on regular basis and had worked for 10 years before he was removed from service on 02.07.1981 without holding enquiry, thereafter, he was again appointed as ALM on temporary basis. As late Ram Karan had put in more than 10 years of regular service and 03 years of temporary service, the legal heirs of late Ram Karan were held entitled for grant of retiral benefits except arrears of salary, bonus etc. In regard to grant of compassionate appointment is concerned, a finding has been given by the learned trial Court that as widow of late Ram Karan had submitted an application requesting for grant of compassionate appointment to appellant/plaintiff No.2, as such, respondents/defendants were directed to consider the case of appellant/plaintiff No.2 for appointment on compassionate grounds, in accordance with law.

6. Aggrieved against the judgment and decree dated 15.03.2000 passed by the learned trial Court, the respondent/defendant-Board filed an appeal against the abovesaid judgment and decree passed by the learned trial Court. The aforesaid appeal came up for consideration before the learned Lower Appellate Court on 02.05.2001, the learned Lower



Appellate Court partly accepted the appeal and set aside the judgment and decree dated 15.03.2000 passed by the learned trial Court to the extent of grant of family pension, gratuity and claim of compassionate appointment. However, in respect of payment of General Provident Fund and ex-gratia payment, the judgment and decree dated 15.03.2000 passed by the learned trial Court was maintained and affirmed. A perusal of the judgment and decree dated 02.05.2001 passed by the learned Lower Appellate Court would show that the learned Lower Appellate Court has held that family pension is admissible only in the case of regular employee. It was also held, while referring to relevant rules, that as late Ram Karan was afforded a fresh appointment vide order dated 21.04.1982 on temporary basis and as he had not completed one year of continuous service, therefore, as per the rules, the appellants/plaintiffs were not entitled for grant of family pension. In regard to grant of gratuity is concerned, learned Lower Appellate Court held that as per Rule 6.16-A of the Punjab Civil Services Rules, no gratuity is payable to an employee who was either dismissed or removed from service, as such, the service rendered by late Ram Karan before removal from the service cannot be taken into consideration for the purpose of gratuity. It was also held that as late Ram Karan had not completed 05 years of service, as such, on this ground also, late Ram Karan was not entitled for grant of gratuity. In regard to grant of compassionate appointment, a finding was given by learned Lower Appellate Court that as the claim of compassionate appointment was rejected by the respondents/defendants-Board vide order dated 04.10.1999 (Ex.D1) during the pendency of the suit, and as the



appellants/plaintiffs had not challenged the abovesaid order, the appellants/plaintiffs were not entitled for grant of compassionate appointment as the same could not be entertained.

7. Aggrieved against the judgment and decree dated 02.05.2001 passed by the learned Lower Appellate Court and judgment and decree dated 15.03.2000 passed by the learned trial Court, the appellants/plaintiffs have filed the present Regular Second Appeal.

8. Appellants No.2 and 3 appeared in person before this Court on 24.09.2025, they submit that the counsel who was engaged in this case had expired and they were not in a position to engage a new counsel. Taking into consideration the abovesaid facts, Mr. Adeshwar Singh Pannu, Advocate was appointed as Amicus Curiae to assist the Court.

9. The only contention raised by learned Amicus Curiae is that although late Ram Karan was removed from service vide order dated 02.07.1981, however, as the order of removal was passed without holding any enquiry and the absence was not willful, as such, services rendered by late Ram Karan before his removal should be taken into consideration for the purpose of grant of retiral benefits.

10. On the other hand, the learned counsel for the respondents/defendants submits that in regard to grant of retiral benefits to the appellants/plaintiffs is concerned, it is the case of the respondents/defendants-Board that family pension is only granted to a regular employee and not to an employee who is appointed on temporary basis. In regard to payment of death-cum-retirement gratuity, it is the case of learned counsel for the respondents/defendants that in terms of



Punjab Civil Services Rules Volume II (for short 'the Rules'), as applicable to respondents/defendants-Board, gratuity is payable to a family in respect of a temporary employee, who dies while in service, if the deceased employee has completed more than one year of service. He submits that as late Ram Karan was removed from service, the period before his removal cannot be taken into consideration for the purpose of gratuity. It is the case of the learned counsel for the respondents/defendants that after being employed on work-charged/temporary basis, late Ram Karan had not completed one year of service, as such, family of late Ram Karan is not entitled for grant of death-cum-retirement gratuity. In regard to grant of compassionate appointment is concerned, learned counsel for the respondents/defendants submits that the learned Lower Appellate Court rightly held that the appellant/plaintiff No.2 was not entitled for grant of compassionate appointment on the ground that the claim of appellant/plaintiff No.2 was already rejected by the respondents/defendants vide order dated 04.10.1999 (Ex.D1) and as the said order was never challenged, no direction can be given for grant of compassionate appointment to the appellant/plaintiff No.2.

11. I have heard learned counsel for the parties at some length; perused the paper-book and have gone through the record placed before me.

12. A perusal of present appeal would show that the appellants/plaintiffs have also challenged the judgment and decree dated 15.03.2000 passed by the learned trial Court. In this regard, it is held that



the appellants/plaintiffs cannot challenge the abovesaid judgment and decree dated 15.03.2000 passed by the learned trial Court for the reason that the appellants/plaintiffs did not challenge the same before the learned Lower Appellate Court.

13. The issue involved in the present case is “*whether the appellants/plaintiffs are entitled for grant of family pension, gratuity and compassionate appointment?*”.

14. Before adjudicating upon the abovesaid issue, it is relevant to consider the Rules which are relevant for the purpose of adjudication of the present case. The relevant rules of the Punjab Civil Services Rules Volume II as applicable to the respondents/defendants-Board are extracted hereinbelow for ready reference:-

“Section III

Misconduct, Insolvency, or Inefficiency.

2.5. No pension may be granted to a Government employee dismissed or removed for misconduct, insolvency or inefficiency; but to Government employees so dismissed or removed, compassionate allowances may be granted when they are deserving of special consideration: provided that the allowance granted to any Government employee shall not exceed two-thirds of the pension which would have been admissible to him if he had retired on medical certificate.

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**C.- DEATH/RETIREMENT/TERMINAL BENEFITS
FOR TEMPORARY GOVERNMENT EMPLOYEES**



6.16-C. (a) The following benefits are permissible in respect of temporary Government employees:

(1) **Terminal Gratuity.-** A temporary Government employee who is discharged on account of retrenchment or is declared invalid for further service, will be eligible for a gratuity at the rate of 1/3rd of a month's pay for each completed year of service provided he has completed not less than 5 years' continuous service at the time of retirement/discharge/invalidment.

(2) **Death-Gratuity.-** The family of a temporary Government employee who dies while in service will be eligible for death gratuity on the scale subject to the conditions specified below:-

(a) On death after completion of one year's service but before completion of three years' service, a gratuity equal to one month's pay;

(b) On death after completion of three years' service but before completion of five years, a gratuity equal to two months' pay;

(c) On death after completion of five years' service or more, a gratuity equal to three months' pay or the amount of the terminal gratuity mentioned in clause if it is greater."

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(3) **General.**--The grant of gratuity under this rule will be subject to the service rendered by the Government employee concerned being held by the authority competent to appoint him to be approved and satisfactory. No gratuity shall be admissible:-

- (a) In a case where the employee concerned resigns his post or is removed or dismissed from public service;
- (b) to a probationer or other Government employee discharged for failure to pass the prescribed test or examination;
- (c) to a re-employed pensioner.

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FAMILY PENSION SCHEME

6.17. The provisions of this rule shall apply:

- (a) to a regular employee of Punjab Government in a pensionable establishment on or after the 1st July, 1964 ; and
- (b) to a Punjab Government employee who was in service on the 30th June, 1964 and came to be governed by the provisions of Family Pension Scheme, 1964, for Punjab Government employees.

(1) to (8) XX XX XX

(9) This scheme is not applicable to—

- (a) Staff paid from contingencies;
- (b) Work-charged staff;
- (c) Casual labour;



- (d) Contract employees; and
- (e) Employees without a minimum service of one year.”

15. A perusal of Rule 2.5 of the Rules reproduced above would show that no pension may be granted to a Government employee who is dismissed or removed from service. In regard to grant of family pension is concerned, Rule 6.17 of the Rules deals with Family Pension Scheme. A perusal of the Rule 6.17 as reproduced above would show that the family pension scheme is only applicable in the case of a regular employee of the Government of Punjab and is not applicable in the case of work-charged staff, casual labour, contract employee etc. In regard to grant of death gratuity as per relevant rules is concerned, death gratuity is admissible to the family of the temporary Government employee, who dies while in service. However, the death gratuity can be granted to the family of temporary employee on death only after completion of one year of continuous service. A perusal of the facts of the case would show that late Ram Karan was appointed on the post of Assistant Lineman in the respondent-Board on 08.05.1970. He was removed from service vide order dated 02.07.1981. Late Ram Karan did not challenge the order dated 02.07.1981 and the said order has attained finality. Late Ram Karan was appointed afresh on work-charged/temporary basis on 21.04.1982, however, he remained absent again from duty w.e.f. 21.01.1983 and unfortunately expired on 14.09.1985, while in service. A perusal of the abovementioned facts would show that late Ram Karan did not work for continuous one year on work-charged/temporary basis. In respect of claim



of compassionate appointment is concerned, a perusal of the facts of the case would show that the claim for grant of compassionate appointment to appellant/plaintiff No.2 was rejected by the respondents/defendants vide order dated 04.10.1999 (Ex.D1) during the pendency of the suit. The appellants/plaintiffs did not challenge the abovesaid order and the said order has attained finality. It is well settled law that the Courts cannot pass an order contrary to the order passed by the authorities until and unless the same is challenged before the Court and the same is struck down by the Court. In the present case, it is an admitted fact that late Ram Karan did not challenge the order dated 04.10.1999 (Ex.D1) vide which the claim for grant of compassionate appointment to the appellant/plaintiff No.2 was rejected. A perusal of the facts of the present case would also show that late Ram Karan expired on 14.09.1985 and the suit was filed by the appellants/plaintiffs in the year 1996 i.e. almost after 11 years. It is well settled law that the compassionate appointment is not a mode of appointment. The object behind giving compassionate appointment is to remove immediate hardship to the family, whose bread earner has expired.

16. In regard to the contention raised by learned Amicus Curiae that as late Ram Karan was appointed on regular basis and his removal was bad in law as no enquiry was held and, as such, the period rendered by late Ram Karan on regular basis before his removal is to be taken into consideration for the purpose of retiral benefits is concerned, a perusal of the facts of the present case would show that the order of removal passed in the case of late Ram Karan has attained finality as the abovesaid order



was never challenged. A perusal of the relevant Rules would show that in the case where an employee is removed from service, he is not entitled for grant of family pension or gratuity. Taking into consideration the facts of the case and the relevant Rules, the service rendered by late Ram Karan on regular basis before his removal cannot be taken into consideration for the purpose of grant of family pension or gratuity and thus, the contention raised by learned counsel that the service rendered by late Ram Karan on regular basis, before his removal, is to be taken into consideration for the purpose of retiral benefits cannot be accepted.

17. Taking into consideration the facts of the case, relevant rules and evidence led by the parties, this Court finds no infirmity or illegality in the judgment and decree dated 02.05.2001 passed by the learned Lower Appellate Court.

18. Accordingly, the present Regular Second Appeal is dismissed.

19. Pending application(s), if any, shall stand disposed of.

16.01.2026

d.gulati

(DEEPINDER SINGH NALWA)
JUDGE

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