
(1994) 02 P&H CK 0024
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 16980 of 1991

Kamlesh Rani

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 14-02-1994

Acts Referred:

Punjab Civil Services Rules — Rule 6.17

Citation : (1994) 108 PLR 721

Hon'ble Judges : T.S. Doabia, J; R.P. Sethi, J

Bench : Division Bench

Advocate : T.P. Singh, for the Appellant; S.S. Shergil, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

T.S. Doabia, J.—The petitioner herein seeks family pension. Her husband Shri Baldev Singh joined as Beldar with the Executive Engineer, Drainage Division, Patiala, on 1.11.1980 on work-charged basis. On 10.12.1985 while he was discharging official duties and was loading earth on trolley of a tractor he met with an accident. This resulted in his death. The widow is claiming family pension. This is being denied on the ground that only the family of that workcharged employee whose services had been regularised is entitled to it.

2. The petitioner in support of her claim filed a replication wherein she placed reliance on an award given by the Industrial Tribunal Punjab, Chandigarh. This award was published in the Punjab Government Gaz. dated 14.7.1972, add has been appended as Annexure P.3. On the basis of this award, the contention raised by the petitioner is that every work-charged employee who had completed more than 3 years" service was entitled to be made regular and was entitled to be confirmed after five years" service. This matter was dealt with by the Industrial Tribunal. While deciding this matter in the shape of Demand No. 1 the Tribunal observed as under:-

" The justification of this demand has been admitted to some extent by the

respondent department in their written statement inasmuch as the respondent management have stated that this Tribunal had already given" awards in reference Nos. 95 of 1967 and 212 of 1967, and the implementation of these awards was under consideration of the Government.

It need hardly be stated that it is rather hard and unjust that working work-charged employees who are employed for years together be deprived of facilities that are being made available to the permanent employees.

In the present reference the workmen who claim to have put in 11 to 15 years" continuous service have been kept on the work-charged staff, which is obviously not justified and the workmen are right in claiming that they are being deprived of the facilities which are being made available to permanent workmen.

Under these circumstances it is held that the work-charged employees who have put in 3 years of continuous service are entitled to being made permanent and to being confirmed after having putting in five years" service as demanded by the workmen."

3. Thus, the stand of the State that in terms of the statutory rules, i.e. Rule 6.17 of the Punjab Civil Services s Volume II Chapter VII, the case of the petitioner is not covered by the rule referred to above is not sustainable. The husband of the petitioner would be deemed to be a regular employee as he had completed 3 years" service and would be deemed to be confirmed and after he had rendered 5 years" service. On the basis of the above award referred to above the husband of the petitioner would be deemed to be a regular employee and thus would be entitled to family pension. It is pertinent to mention that under Rule 6.17 the family pension is to be given in case of death of an employee while in service where the Government employee has completed a minimum of one year"s continuous service without break.

4. At the time of motion hearing the petitioner had relied upon a judgment of this Court in Krishna Rani v. State of Punjab 1989 (2) S.L.R. 132. The correctness of this judgment was doubted by the Motion Bench and the matter was directed to be placed before a larger bench. This is how the matter has come up before us.

5. As the present petition is being decided by taking into consideration the award given by the Industrial Tribunal, Punjab, Chandigarh, referred to above, no view is being expressed with regard to the proposition of law laid down by this Court in Krishna Rani"s case (supra).

6. In view of the award given by the Industrial Tribunal, Punjab, Annexure P.3, the husband of the petitioner would be deemed to be a regular employee and a confirmed hand. Thus, his widow would be entitled to family pension. Consequently, the writ petition is allowed and the petitioner is held entitled to family pension. The family pension may be released to her within a period of three months. The arrears, if any, be also paid to her. No order as to costs.