
(2023) 05 SHI CK 0060
In the High Court Of Himachal Pradesh
Case No : CWPOA No.1656 Of 2019

Kanshi Ram (Since Deceased) Through His Lrs & Ors	APPELLANT
Vs	
State Of H.P & Ors	RESPONDENT

Date of Decision : 15-05-2023

Acts Referred:

Code Of Civil Procedure, 1908 — Order 22 Rule 3, Order 22 Rule 9
Limitation Act, 1963 — Section 5

Citation : (2023) 05 SHI CK 0060

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Kanta Thakur, Anup Rattan, Seema Guleria, Jyotsna Rewal

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

CMP (M) No.476 of 2023

1. This application has been moved under Order 22 Rule 3 and 9 of the Code of Civil Procedure read with section 5 of the Limitation Act for condonation of delay and for setting aside of abatement with a further prayer to bring on record the legal representatives of deceased petitioner.

2. The application is with the averments that the petitioner (Kanshi Ram) died on 08.01.2016. The applicants are stated to be his legal heirs detailed in para-2 of the application. They have prayed for bringing them on record in place of deceased petitioner. It has also been pleaded that the applicants became aware of the pendency of writ petition only in September, 2022, when some officials from the respondents-department visited their home and inquired about the deceased petitioner. This is the reason given for condoning the delay in moving the application. Reply to the application is not intended to be filed by the non-applicants. The non-applicants have no objection in allowing the prayer made in the application.

3. Taking into consideration the nature of litigation, the averments made in the application, the submissions of learned counsel for the parties and keeping in mind that the original petitioner had died during the pendency of petition, the instant application is allowed in the interest of justice. The applicants detailed in para-2 of the application i.e. CMP (M) No.476 of 2023, are ordered to be brought on record as petitioners No.1 (a) to (e). Registry is directed to carry out necessary corrections in the cause title.

The application to stand disposed of. CWPOA No.1656 of 2019

With the consent of learned counsel for the parties, the matter is heard at this stage. This petition was originally filed by Kanshi Ram (since deceased) for the grant of following substantive reliefs:-

a) That respondents may very kindly be directed to regularize the services of the petitioner as per Annexure P-1 w.e.f the year 2000 or in the alternative it is prayed that the direction may be given to regularize the services of the petitioner w.e.f. 1.1.2001 with all consequential benefits like arrears of pay, seniority etc.

b) That respondents may very kindly be directed to consider calculate and grant salary two years, i.e. till the year 2010 taking as if petitioner has superannuated at the age of 60 years and above orders to the extent thereby superannuating the petitioner w.e.f 31.10.2010. in view of the above stated facts.

c) That respondent may very kindly be directed to grant benefits as per FR 49 i.e. by calculating half of the daily waged period served by petitioner for the purpose of pensionary benefits.

d) That direction may be given to the respondents to immediately process the case of the petitioner for grant of pension and calculate and pay the same forthwith without any further delay.”

2. During the hearing of the case, learned counsel for the petitioner submitted that the case of the petitioner is squarely covered by the judgment in LPA No.4011 of 2013, dated 13th May, 2022 (State of H.P & anr. vs. Bachittar Singh & Ors) as well as by the decision dated 22.02.2022 in CWP No.2711 of 2017 (Baldev vs. State of H.P & ors). Learned counsel for the petitioner states that the petitioner would be content if the case of the petitioner is considered afresh by the respondents in light of the aforesaid judgments. Learned Additional Advocate General has no objection to this prayer.

Having regard to above submissions and without examining the merits, this petition is disposed of by directing the respondents to consider the case of the original petitioner afresh for the grant of reliefs prayed for by him, in light of the aforesaid judgments and pass appropriate orders, in accordance with law, within a period of six weeks from the date of receipt of copy of this order. The decision so arrived at, shall also be communicated to the petitioners.

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