
(1992) 11 P&H CK 0091
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5564 of 1992

Mrs. Sudesh Juneja

APPELLANT

Vs

Haryana Harijan Kalyan Nigam Ltd. and Another

RESPONDENT

Date of Decision : 18-11-1992

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1993) 103 PLR 465

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : Anand Chhibber, for the Appellant; P.S. Chauhan, for the Respondent

Final Decision : Allowed

Judgement

Amarjeet Chaudhary, J.—Smt. Sudesh Juneja, widow of Sh. H K. Juneja, who was District Manager, Haryana Harijan Kalyan Nigam Ltd., (hereinafter referred to as the Nigam"), has filed the present writ petition for issuance of a mandamus directing the respondents to release the arrears of pay and allowances due to her husband late Shri H. K. Juneja, as consequence of quashing of order of termination of his services vide this Court's judgment dated January 4, 1989.

2. The back-ground of the case which led to the filing of the present petition is that the services of the petitioner's husband late Shri H. K. Juneja were terminated by the Nigam vide order dated 6.3 1987. Shri H. K. Juneja filed civil writ petition No. 3960 of 1987 in this Court challenging the order of termination. This Court vide its judgment dated January 4, 1989, while allowing the writ petition, quashed the impugned order of termination of services of Shri H. K. Juneja. The Nigam filed L. P. A. No. 113 of 1989 which was also dismissed on 28.9.1991.

3. After the decision of the C. W. P. Shri H. K. Juneja submitted joining report but he was not allowed to join on the plea that L.P.A. was pending. Even after the dismissal of L. P. A., Shri H. K. Juneja was not allowed to join duty and was

informed that the Nigam proposes to file S. L. P. Subsequently, the S. L. P. filed by the Nigam in the apex Court was dismissed in limine.

4. The respondent-Nigam vide order dated 25. 4. 1991, copy Annexure P-3 to the writ petition, allowed Shri H. K. Juneja to resume duty at Sirsa in view of the judgment of this Court. Shri Juneja joined on duty on 29.4.1991. Thereafter, repeated requests were made by Shri Juneja to the department for the release of arrears of pay etc. for the period for which he remained out of service but the respondent-Nigam informed the husband of the petitioner vide communication dated 10.10.1991 that the arrears of pay and allowances could not be given as the High Court while allowing the writ petition had not passed any order in this regard.

5. Vide order dated 10.9.1991, the Nigam informed the petitioner's husband Shri H K. Juneja that the period for which he remained out of service will be treated as period of leave of the kind due to him. Before Shri Juneja could take any action in the matter, he died. His widow approached the authorities for the release of arrears of pay etc. but without any result. Left with no other alternative, Smt. Sudesh widow of Shri H. K. Juneja has filed the present writ petition.

6. Learned counsel for the petitioner contends that the order of termination of service of the petitioner's husband was quashed. As such the consequential benefit and arrears of salary etc. could not be denied to him.

7. On the other hand, learned counsel for the Nigam contends that the Court had not granted the consequential relief to Shri Juneja. As such the petitioner is not entitled to any relief.

8. On the consideration of the submission of the learned counsel for the parties, this Court is of the view that this writ petition deserves to be allowed. This Court's decision rendered in C. W. P. No. 3960 of 1987 (H. K. Juneja v. Haryana Harijan Kalyan Nigam) on 4.1.1989 has attained finality, as against the same, the L. P. A. and the S. L. P. preferred by the Nigam were dismissed.

9. This Court in the order dated 4.1.1989 in the concluding part held as under :--

"Further, the impugned orders have been passed in violation of the Bye-laws of the Nigam. The services of the employee of Nigam cannot be terminated except after giving a notice of three months or pay in lieu thereof. Since no such notice was ever given to the petitioner, nor any pay in lieu thereof was given before his service was ordered to be terminated, the order has been passed in violation of the service by-laws."

It is a well settled principle of law that once the order of termination of service of an employee is found to be violative of service laws/bye-laws and the order is quashed, the employee becomes entitled to all the consequential benefits unless otherwise denied. In the instant case, there is no specific mention in the judgment that the petitioner would not be entitled to claim salary etc. for the period he remained out of service.

10. As a result, the writ petition is allowed and it is directed that the arrears of pay etc. due to petitioner's husband for the period he remained out of service are to be released to the petitioner within a period of three months from today. The petitioner shall also be entitled all the ancillary benefits which a widow becomes entitled to on the death of her husband. Consequently orders Annexures P-7 and P-8 stand quashed. No costs.