
(2022) 02 SHI CK 0055
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 162 Of 2020

Nirmala Devi

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 21-02-2022

Acts Referred:

Citation : (2022) 02 SHI CK 0055

Hon'ble Judges : Mohammad Rafiq, CJ; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Parveen Thakur, Ashok Sharma, Vikas Rathore, Ritta Goswami

Judgement

Jyotsna Rewal Dua, J

1. Case of the petitioner is that her husband late Shri Rattan Chand was engaged on daily wage basis as beldar in Irrigation and Public Health Division Sundernagar, District Mandi, H.P. in the year 1987. He served as such w.e.f. 21.01.1987 to 20.05.1987. His muster roll/designation thereafter was changed to pump operator by the respondent-IPH department.

The petitioner further submits that after completion of 10 years of continuous daily wage service as pump operator, services of her husband were regularized w.e.f. 01.01.1998 vide order dated 12.10.1999. Late Shri Rattan Chand retired from service on 30.04.2006.

2. The grievance of the petitioner is that the respondent-department though has paid all retiral benefits to her late husband on the basis of his length of service rendered in the department, however, while calculating his pensionary benefits, the respondents have not paid him gratuity for the daily wage service period w.e.f. 01.01.1987 to 31.12.1997.

3. Learned counsel for the petitioner submits that the respondent-department is liable to pay gratuity to the petitioner's husband for the service rendered by him on daily wage basis w.e.f. 01.01.1987 to 31.12.1997. Learned counsel further

submits that the case of the petitioner is covered by a judgment passed in State of H.P. Vs. Lashkari Ram, reported in 2008(1) Sim. LC 245.

4. In Lashkari Ram's case (supra), the workman had worked on daily wage basis for a specified period and thereafter his services were regularized. It was held therein that when the workman had worked in two different spells in two different capacities, then he is entitled to get the benefit of both the acts i.e. Payment of Gratuity Act 1972 for the service rendered on daily wage basis and CCS (Pension) Rules 1972 for the service rendered on regular basis.

5. Learned counsel for the petitioner submitted that the petitioner has represented to the respondent department vide Annexure P-5 dated 06.08.2021 for extending the benefit of gratuity for daily wage service period in favour of her husband, however, till date no action on the same has been taken by the respondents. Learned counsel submits that the petitioner would be satisfied in case the respondents are directed to decide the pending representation (Annexure P-5) of the petitioner within a time bound schedule in light of the judgment rendered in Lashkari Ram's case (supra). Learned Additional Advocate General does not object to this prayer.

Considering the submissions made by learned counsel for the parties, without advertng to the merits of the case, we dispose of the instant writ petition by directing the respondents/competent authority to decide the representation of the petitioner i.e. Annexure P-5 dated 06.08.2021 in light of the judgment rendered in State of H.P. Vs. Lashkari Ram, reported in 2008(1) Sim. LC 245 within a period of two months from today. The copy of the decision, so arrived at, be supplied to the petitioner. Pending applications, if any, also stand disposed of.