

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 11000 of 2005 (O&M)

DATE OF DECISION: 29.04.2014

Ajmer Kaur

.... Petitioner

versus

Central Administrative Tribunal, Chandigarh Bench and others

..... Respondents

**CORAM: - HON'BLE MR. JUSTICE SANJAY KISHAN KAUL, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Ravinder Hooda, Advocate for
the petitioner

Ms. Geeta Singhwal, Senior Panel Counsel
for UOI

..

SANJAY KISHAN KAUL, CHIEF JUSTICE (Oral):

CM-2432-2014 (For exemption):

Allowed subject to just exceptions.

CM-4987-2014 (Restoration application)

CM-2433-2014 (Impleadment of LRs):

Notice which is accepted by learned counsel for the
respondents/non-applicants.

CM-2433-2014 has been filed seeking to implead the
L.Rs. of the deceased petitioner, who is stated to have
passed away on 8.2.2012, and CM-4987-2014 for recalling the
order dated 5.3.2014 dismissing the petition for non-
prosecution.

It is stated that Smt. Ajmer Kaur has survived by her husband, two sons and a daughter. A copy of the death certificate has been enclosed. The application, undoubtedly, is filed belatedly after two years.

Taking into consideration the overall conspectus of the matter, we are still inclined to permit the L.Rs. to be brought on record and restore the writ petition to its original number.

Applications accordingly stand allowed.

Amended memo of parties is taken on record.

CWP-11000-2005:

The petitioner seeks to assail the impugned order dated 21.10.2004 (Annexure P-2) of the Central Administrative Tribunal, Chandigarh Bench in O.A. No.560-CH of 2004 dismissing the Original Application filed by the petitioner.

The petitioner was appointed as Ayah with the respondent-department on 4.12.1981 with her name stated to have been sourced through the employment exchange. The petitioner was getting a fixed salary of `250/- per month. It is the case of the petitioner that her employment was extended from time to time with salary increase, but she was not regularised. She filed an O.A. before the Central Administrative Tribunal seeking regularisation, but that application was dismissed and so was the writ petition filed thereafter to assail that order. The grievance of the

petitioner is qua an order dated 3.6.2004 terminating her services.

It is the case of the petitioner that she cannot be replaced by another contractual employee but her replacement could only be through a regular employee recruited through the normal appointment procedure. The Tribunal issued notice and stayed the operation of the impugned order of termination. The respondents contested the O.A. and affirmed on affidavit that petitioner was never appointed against any post but had been paid out of the Command Welfare Fund. One Smt. Anita Devi (respondent No.6 herein) is stated to have been selected against the temporary post of Ayah. As far as the fresh recruitment is concerned, it has been stated that Smt. Anita Devi has been recruited in pursuance to a regular process after holding interviews on 15.5.2004. In fact, the petitioner also participated in the interview process and Smt. Anita Devi was selected on merits. The petitioner was placed at Sr. No.1 in the reserve list.

The Tribunal, however, dismissed the O.A. vide order dated 21.10.2004 opining that since the appointment of Smt. Anita Devi was through a regular selection process in which petitioner had participated (after examining the proceedings of the Board), there was no merit in the O.A. However, while doing so, the Tribunal observed that keeping in mind the long years of service of the petitioner,

respondents may consider her engagement in some other job befitting her experience and qualification.

The challenge to the aforesaid order has been laid in the present petition with notice of motion being issued on 21.7.2005. Simultaneously, the termination of services of the petitioner was also stayed. The petition was admitted on 27.2.2006 when the interim order was directed to continue. However, subsequently, an application for vacation of stay was filed by respondents which was allowed on 13.8.2008 predicated on a reasoning that the services of the petitioner were already terminated before passing of the order dated 21.7.2005. The main petition was directed to be listed in the week commencing from 1.9.2008.

The applications brought on record today show that the petitioner has passed away. Insofar as her employment is concerned, it was her personal right. The legal heirs cannot step into the shoes of the petitioner. The petitioner was not a regular employee who is entitled to any pensionary or other monetary benefits which would enure for the benefit of the legal heirs. The services of the petitioner were terminated and she cannot be paid for the period she did not work especially as respondent No.6 was deployed in her place through a process of selection. Her claim for regularisation in service already stands dismissed in the earlier round of litigation.

We are, thus, of the view that there is no effective relief which can be granted in the present petition. In the peculiar circumstances of the case, the observations of the Tribunal cannot be interfered with.

The petition is, thus, disposed of in the aforesaid terms.

**(SANJAY KISHAN KAUL)
CHIEF JUSTICE**

29. 04. 2014
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**(ARUN PALLI)
JUDGE**