

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.**

**C.W.P. No.21713 of 2012 (O&M)**

Date of Decision: 16.01.2014

Prem Chand son of Shri Mukanda Ram ....Petitioner

Versus

The Haryana State Cooperative Supply and  
Marketing Federation Limited and another ....Respondents

**BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

Present:- Mr. J.S. Maanipur, Advocate  
for the petitioner.

Mr. Arvind Seth, Advocate  
for the respondents.

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**DAYA CHAUDHARY, J. (ORAL)**

**C.M. No.440 of 2014**

Allowed as prayed for.

**C.M. No.441 of 2014**

This is an application for placing on record the written statement filed on behalf of the respondents.

C.M is allowed. Written statement filed on behalf of the respondents is taken on record.

**CWP No.21713 of 2012**

The present petition has been filed by the petitioner under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing of impugned order dated 22.10.2012 passed by respondent No.1, whereby, the petitioner has been retired retrospectively w.e.f. 30.04.2010.

It has been brought to the notice of this Court by learned counsel for the petitioner that during the pendency of this petition, the petitioner has expired and now the claim is of the family pension, which is to be paid to the widow of the petitioner.

A preliminary objection has been raised by learned counsel for the respondents that keeping in view the disputed question of fact regarding two dates of birth is to be decided by the Civil Court.

Learned counsel for the petitioner submits that the petitioner was allowed to work even after earlier date of his retirement which was mentioned in one of the service book and was also allowed to draw the salary subsequently, whereas, learned counsel for the respondents submits that all retiral benefits have been with-held as the responsibility of erring official/officer was to be fixed and since the petitioner has died, the same would be released to the legal representatives of deceased as per law.

The fact that the petitioner has expired during pendency of the petition and it is also an admitted fact that he was allowed to work for a period of two years after earlier date of birth and no recovery can be effected from him as he has worked during that period. Now the question is for release of retiral benefits to the widow of the petitioner. She is not only entitled for retiral benefits but the family pension as well.

Keeping in view the facts as mentioned above, the issue of retirement became infructuous but the issue of granting benefits after retirement to the legal representatives of the deceased is before the respondents authorities.

The respondents are directed not to recover the amount for salary of two years paid to the deceased as the petitioner had worked during that period also. However, the respondents are also directed to pay

after death benefits to the widow of the petitioner on the basis of salary which the petitioner was getting at the time of his death.

The necessary relief be granted to the petitioner within a period of two months from the date of receipt of certified copy of this order.

The petition is disposed of accordingly.

However, in case, the widow of the petitioner is still aggrieved by any action of the respondents, she is at liberty to avail the appropriate remedy under law.

16.01.2014  
**gurpreet**

(DAYA CHAUDHARY)  
JUDGE