

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

CWP No. 14449 of 2011 (O&M)

Date of decision: 26.05.2015

Chiranji Lal and others

...Petitioners

Versus

Haryana Vidyut Prasaran Nigam Ltd., and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikas Chatrath, Advocate for the petitioners.

Mr. Gaurav Mohunta, Advocate for the respondents.

Jitendra Chauhan, J. (Oral)

The prayer in the present petition is for the release of the pensionary benefits for the service rendered by the petitioners with the previous employer i.e. Beas Construction Board (for short 'BCB') for the period from 1974 to 1986.

It is contended that the petitioners were appointed on work charge basis in BCB, however, the employee who were taken into other Corporations were granted the benefits of their earlier service but the service rendered by the petitioners in BCB is not being counted for annual increments and other pensionary benefits. The erstwhile HSEB was in need of skilled staff/workers and wrote a letter to BCB inviting candidates from BCB and approval was

granted to take 16 persons on work charge basis. After an interview, the HSEB offered appointments on contract basis initially for one year with assurance that they would be absorbed in the respondent-Department. It is further asserted that the petitioner performed the duties at BCB on work charge basis, till their services were selected and appointed by the respondent and were issued appointment letters. The petitioners were granted extension till they were regularized in the year 1992. While the petitioners were working on contract basis, it was clearly mentioned that their appointment was in the combined cadre. The other similarly situated person namely, Bir Singh son of Tulsi Ram, who had been also working in BCB along with the petitioners was taken on the establishment of the respondent. The said Bir Singh was granted all benefits including the annual increments as well as earned leave, however, the petitioners are being discriminated. The learned counsel further submits that the petitioners continued working without any break upto 1992 with the respondent, till their services were regularized.

The learned counsel refers to **Kesar Chand Vs. State of Punjab and others**, 1989(1) RSJ 629 and states that once the services had been regularized, then the previous service is to be counted towards pensionary benefits. The petitioners have been regularized then their previous service including the one rendered in BCB as well as within the respondent-Department is liable to be

counted towards pensionary benefits.

The learned counsel for the petitioners also refers to State of Haryana and another Vs. Deepak Sood and others, rendered in SLP (C) No. 14099 of 2006, Dilwar Singh Vs. Haryana Power General Corporation Ltd., and others, 2006(3) SCT 412, Radhe Shyam Garg Vs. State of Haryana and others, 2015(2) SCT 624 and Dakshin Haryana Bijli Vitran Nigam and others Vs. Bachan Singh (Annexure P-12).

On the other hand, the learned counsel for the respondents refers to Annexure P-4, Clause 2, wherein it has been specifically reflected that the appointment of the petitioners was purely on contract basis for a period of one year and the services were terminated after expiry of the contract or earlier without any notice and without assigning any reason thereof. The learned counsel further refers to Annexure P-7, the representation moved by the petitioners to the Superintending Engineer, whereby they have prayed for grant of appointment from the date of first joining in the Haryana State Electricity Board (for brevity 'HSEB') and annual increments may also be sanctioned and arrears be paid to them.

Heard.

The Hon'ble Supreme Court in State of Haryana Vs. Deepak Sood and others, observed as under:-

“Therefore, in view of the consistent approach of this Court, it is no more res integra that the incumbent on transfer to the new department may not get the seniority but his experience of the past service rendered will be counted for the purpose of other benefits like promotion or for the higher pay scale as per the Scheme of the Government.”

In case of Deepak Sood (**supra**) wherein after relying upon various judicial precedents held that once an employee was transferred to another department, then denial of the benefits on account of the previous service rendered in the earlier department cannot be washed away, especially as his experience would benefit the new department and it was held that the past service rendered in the earlier department could not be denied for pay and pensionary benefits, whereas in the present case, the petitioners have staked the claim for counting the previous service rendered in Bhakra Construction Board, the same cannot be denied in view of the judicial precedents as referred above. Consequently, directions are liable to be issued to count the previous service rendered in BCB for pensionary benefits and in so far as the service rendered in the erstwhile HSEB on work charge basis is liable to be counted in view of the instructions issued by the Board/Nigam (HVPNL) and in view of the judicial precedents as referred above.

Admittedly, the advertisement (Annexure P1) was circulated by the Secretary, HSEB for employment of skilled workers

from BCB. Another letter was circulated, vide Annexure P-2, whereby the deployment of skilled workers from BCB was sought. It is to be noticed that the petitioners who initially joined the BCB acquired skill to make them eligible for the requirement sought by the respondents. It is also to be seen that in case the petitioners had continued with the previous employer, even then the petitioners would have been entitled to the relief claimed by the petitioners in the present writ petition. The respondents-Corporation was joined by the petitioners for the further progress of their career after attaining specialized training in the respective disciplines. It is also to be noticed that the similarly situated employees Biri Singh and Puran Singh who were inducted in the services of the Corporation were granted the benefit as claimed by the petitioners.

Considering the fact that the same benefit has been given to the other employees, the condition to treat the petitioners who were highly skilled and experienced person as a fresh entrant and depriving them of the benefit of experienced and skilled would be a harsh approach by the respondents-Corporation, a model employer in a democratic set up particularly when the same benefit has been granted to the other employees.

In the circumstances, the present petition is allowed. The petitioners are held entitled to the pension along with pensionary benefits for the period they served with the BCB and the work

charged service rendered with the respondents-Corporation. The respondents are directed to calculate the amount and disbursed the same within four months from the receipt of certified copy of this order.

26.05.2015

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(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to reporter: Yes / No