

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

CWP-15065-2011 (O&M)
Date of decision : 06.04.2015

Mohan Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. M.L. Saini, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. I.S. Sidhu, Advocate for respondent No.4.

JITENDRA CHAUHAN, J. (Oral)

The petitioner seeks direction to the respondents to grant pension and other retiral benefits after counting the entire service rendered by him from the date of his initial appointment w.e.f. 11.04.1975, till the date of his retirement i.e. 30.04.2010.

The petitioner was appointed as Regular Clerk on 11.04.1975 with the PUNSUP. Subsequently, he was promoted as Junior Auditor and worked as such from 11.04.1977 to 31.12.1985. Thereafter, he was re-designated as S.A. Accountant on 01.01.1986 and after that promoted as Auditor on 26.06.1987. He worked as Auditor till 19.07.1993. During this period, he qualified the State Accounts Service (SAS) examination.

Thereafter, applications were invited by respondent No.3, for filling up the post of Section Officer from various departments. The petitioner applied for the post of Section Officer through proper channel and was selected as Section Officer. Consequently, he submitted his resignation to PUNSUP which was accepted on 30.07.1993, w.e.f. 19.07.1993 A.N. and the petitioner submitted his joining report on 20.07.1993 as Section Officer. He rendered 18 years, 3 months and 9 days of service and retired as A.C. (F&A) from the office of the Civil Surgeon, Ropar on 30.04.2010.

The learned counsel refers to the notification issued on 15.11.2000 to all the departments for the protection and fixation of the pay of Government employees who have been appointed by way of transfer/open selection etc. from one service to another and applied for government service through proper channel, that the past service of the government employees should not be washed out and was required to be counted for the purposes of seniority and pension.

The learned counsel has referred to judgment/order dated 26.02.2008, passed in CWP No.7120 of 2002, titled as ***Smt. Krishna Khullar Vs. State of Punjab and another***, and judgment/order dated 23.02.2010, rendered in CWP No.10008 of 2006, captioned as ***Ram Singh and another Vs. State of Punjab and others***, wherein, the identical proposition stands settled. Against the judgment in Ram Singh's case (supra), of the Hon'ble Single Bench of this Court, the

respondent-State preferred LPA No.1122 of 2010, which also stands dismissed vide order dated 04.10.2010. The relevant portion of the judgment reads thus:-

“In the aforesaid case, the Bench had occasion to consider a more or less identical situation where the State had refused an employee of the Punjab State Handloom and Textiles Development Corporation Limited (Puntex) subsequently absorbed in one of its departments, to refund the employer's share of contributory provident fund so as to be entitled to pension and other pensionary benefits. The Division Bench took the view that absorption was not an incident of fresh recruitment and further the such absorption having been made on the basis of the option exercised by the employee as was made available by the respondent-State, the State cannot be allowed to resile from the earlier stand taken and embark upon a course of action to the prejudice of the absorbed employee. The facts of the present case are largely identical. We are, therefore, of the view that the principles laid down in Subhash Chander Chadha's case (supra) would govern the instant matter also. We, therefore, respectfully concur with

the view taken by the learned single Judge. The order under challenge is reiterated by dismissing the appeal.”

In the considered opinion of this Court, the case of the petitioner is squarely covered by the ratio of law laid down in Smt. Krishna Khullar's and Ram Singh's case (supra).

Thus, the order dated 03.08.2010, fixing the pension of the petitioner without counting his earlier service with PUNSUP is illegal. The resignation submitted to the PUNSUP will not wash away the earlier service of the petitioner for the purpose of counting service in the latter department towards pension etc. It is held that the earlier service from 11.04.1975 to 19.07.1993 of the petitioner be counted towards pension etc.

In the circumstances, the impugned order dated 03.08.2010, is quashed and the respondents are directed to re-consider and decide the case of the petitioner in the light of the judgments in Smt. Krishna Khullar's and Ram Singh's case (supra), within a period of four months from the date of receipt of a certified copy of this judgment. In case, the petitioner is found entitled to any consequential monetary benefit, the same shall be released to him forthwith.

Allowed.

06.04.2015
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Note : Whether to be referred to Reporter : Yes / No

ATUL SETHI
2015.05.07 16:20
I attest to the accuracy and
authenticity of this document
Chandigarh