

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.19091 of 2012 (O&M)

Date of Decision: **09.02.2015**

Harinder Singh

...Petitioner

Versus

Chairman, Punjab State Power Corporation Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr.Sarabjeet Singh Khaira, Advocate
for the petitioner.

Mr.R.L.Sharma, Advocate for
the respondents.

HARINDER SINGH SIDHU, J.

This petition has been filed seeking directions to the respondent – Corporation to release his salary for the period from 21.7.1994 to 16.12.1997 along with all benefits and for counting that period for fixing the seniority.

The petitioner was appointed as R.T.M. on ad hoc basis vide order dated 21.8.1990, on the basis of his performance in sports. His services were terminated vide order dated 7.9.1994. He challenged his termination by filing CWP No.6889 of 1996, which was allowed on 15.5.1997. It was ordered that the petitioner be reinstated

in service with continuity of service, but without back-wages. The said order was challenged by the respondents before the Hon'ble Supreme Court by filing SLP(civil) No.16411 of 1997, which was dismissed on 15.9.1997. Consequently, vide order dated 16.12.1997 (Annexure P-6) passed by the respondent – Corporation, the petitioner was reinstated in service on the same terms and conditions. It was clarified that he will have continuity of service, but will not be entitled to back-wages. Later, vide order dated 24.3.2009, the services of the petitioner were regularised w.e.f. 5.9.1990.

The petitioner is aggrieved of the order dated 31.8.2009 (Annexure P-5), vide which the period from 21.7.1994 to 16.12.1997 has been ordered to be treated as non-duty period for all purposes. He urges that this is in utter disregard of the order dated 15.5.1997 passed by this Court and upheld by the Hon'ble Supreme Court. The petitioner has also sought salary for the period in question.

In response to the notice of motion, respondent – Corporation has filed reply stating that the reinstatement of the petitioner is in compliance of the order dated 15.5.1997 passed by this Court in CWP No.6889 of 1996, which was also upheld by the Hon'ble Supreme Court. It is the case of the respondents that CWP No.6889 of 1996 was allowed by setting aside the termination order, but the petitioner was not allowed the back wages from 21.7.1994 to 16.12.1997 i.e. the period he remained out of service. It is admitted that order of this Court provided for continuity of service, but the

back-wages were denied. It is also admitted that vide order dated 24.3.2009, the services of the petitioner were regularised w.e.f. 5.9.1990, but it is stated that the same does not entitle him to the salary/back-wages which were specifically denied by the Court while allowing his earlier petition.

Learned counsel for the petitioner has argued that in view of the order dated 15.5.1997 passed by this Court, he is entitled to continuity of service for all intents and purposes, and thus, the order dated 31.8.2009 (Annexure P-5) passed by the respondents treating the period in question as non-duty period for all purposes is illegal. He also contends that in the light of the regularization of the services of the petitioner from the year 1990, he was also entitled to back-wages for the period he remained out of service i.e. 21.7.1994 to 16.12.1997.

The issue is to be determined with reference to the order dated 15.5.1997 passed by this Court in CWP No.6889 of 1996, the operative part of which reads as under:-

“For the reasons recorded above, the writ petition is allowed. The petitioner is ordered to be reinstated forthwith in service. However, since he has challenged the order of dismissal later, he will not be entitled to the back wages. However, he would have continuity of service. No costs.”

A perusal of the order, quoted above, reveals that the

petitioner would not be entitled to back-wages/salary for the period, he remained out of job. However, he would be entitled to continuity of service.

The necessary incident of grant of continuity of service is that the petitioner shall be deemed to be in service with effect from the date of his initial appointment for all intents and purposes, including for purposes of seniority, promotion, increments etc.

Hence, this petition is allowed to the extent that the petitioner would be entitled to count the period from 21.7.1994 to 16.12.1997 for the purposes of seniority, promotion, increments etc. but he would not be entitled to back-wages for this period.

Ordered Accordingly.

February 09, 2015

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**(HARINDER SINGH SIDHU)
JUDGE**