

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

CWP No.9564 of 2014
Date of decision : 23.03.2015

Ram Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

- 1. Whether reporters of local newspapers may be allowed to see judgment? No**
- 2. To be referred to reporters or not? Yes**
- 3. Whether the judgment should be reported in the Digest? No**

Present: Mr. B.R. Vohra, Advocate
for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana.

AMIT RAWAL, J. (Oral)

Challenge in the writ petition is to order dated 15.04.2014 (Annexure P-5) passed by respondent No.3, whereby the petitioner had though been granted benefit of the higher standard pay scale on completion of 10 years of service by counting his on time service, but while granting pensionary benefits on retirement on 31.07.2013, period for which he remained out of service, had not been taken into account.

Mr. B.R. Vohra, learned counsel for the petitioner contends that

petitioner had approached this Court for challenging the order whereby the period petitioner remained out of service was ordered to be considered. He contends that vide award dated 14.12.1995, the petitioner was reinstated on the post of Conductor with the benefit of continuity of services and other consequential benefits. However, it was ordered that petitioner shall not be entitled for the wages from the date of termination i.e. 19.2.1990 till 09.07.1992 and the petitioner approached this Court vide CWP No.141 of 2000, as the petitioner was not granted the benefit of higher standard scale on completion of 10 years & 20 years of service and this Court vide order dated 14.12.2001 (Annexure P-2) allowed the writ petition by setting aside the order of the respondents and gave directions to respondents to consider the period on duty in view of the award given by the Labour Court. It was further mentioned that all the necessary benefits shall be given to the petitioner within six months.

The order dated 14.12.2001 passed in CWP No.141 of 2000 is extracted hereinbelow:-

*“Mr. B.R. Vohra, Advocate
on behalf of the petitioner.*

Mr. Anmol Rattan Sidhu, AAG, Haryana.

*We allow this writ petition by setting aside
Annexure P-3 and give directions to the respondents to
consider the period on duty in view of the award given
by the Labour Court. All the necessary benefits shall be
given to the petitioner within six months.*

Sd/- (R.L. Anand)

Judge

Sd/- (Adarsh Kumar Goel)

December 14, 2001

Judge”

Since the respondent did not take into the consideration the

period, for which the petitioner remained out of service for the purpose of grant of pension, petitioner again approached this Court by filing CWP No.2183 of 2014 which was disposed of on 06.02.2014 with the direction to the respondent to consider and decide the legal notice dated 13.11.2013 within a period of two months. It is the said notice which has been decided vide impugned order dated 15.04.2014 (Annexure P-5), whereby General Manager, Haryana Roadways, Hisar has not granted the pension to the petitioner for the period he remained out of service i.e. 16.08.1976 to 09.07.1992.

Learned counsel further contended that impugned order is vitiated in law and suffers from illegality as General Manager, Haryana Roadways, Hisar, while 'passing' impugned order has not considered the order dated 14.12.2001 passed in CWP No.141 of 2000 and, therefore, petitioner was entitled to the benefit i.e. 50% of the last pay drawn.

Mr. Ravi Partap Singh, Assistant Advocate General Haryana contends that order passed by General Manager, Haryana Roadways, Hisar is fair, legal and justified and is in consonance with the instructions from the Haryana Government.

I have heard learned counsel for the parties and appraised the impugned order as well as paper book.

Vide impugned order, General Manager, Haryana Roadways, Hisar while deciding the legal notice dated 13.11.2013 has not considered the order dated 14.12.2001 passed by this Court, whereby the respondents were directed to consider the petitioner on duty in view of the award given by the Labour Court and further ordered that all the necessary benefits be

given to the petitioner within six months.

Since the petitioner had not been given the benefit of higher standard pay scale on completion of 10 to 20 years, the aforementioned in view of order dated 14.12.2001 (Supra), the impugned order passed by General Manager, Haryana Roadways, Hisar is not only aberrant but is preposterous much less, fallacious. The General Manager, Haryana Roadways, Hisar has not considered the order dated 14.12.2001 of this Court while rejecting the claim of the petitioner, much less, applied his mind despite the fact that the previous details of the litigation, & part relief given to the petitioner had been detailed in the legal notice.

In view of the fact, the petitioner has already been given the benefit by this Court, the petitioner is thus entitled to the pension i.e. 50% of last pay drawn. It was not expected from General Manager, Haryana Roadways, Hisar to pass the order in a mechanical and casual manner and the petitioner has thus been constrained to approach this Court for the third time.

I deem it appropriate to impose a cost of Rs.20,000/- upon concerned General Manager, Haryana Roadways, Hisar who was working as General Manager in Hisar on relevant date i.e. on 15.04.2014 which is to be recovered from his salary, by allowing the writ petition and setting aside the impugned order.

In view of what has been observed, the present writ petition is allowed, the order dated 15.04.2014 is set aside. The petitioner would be entitled to 50% of the pension on the basis of last wages drawn.

It is expected that pension of the petitioner shall be revised within three months from the receipt of certified copy of this order, failing which, the petitioner shall be entitled to interest @ 9% p.a.

23.03.2015

pawan

**(AMIT RAWAL)
JUDGE**