

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17824 of 1998 (O/M)
Date of decision : 1.12.2016

Babu Ram

..... Petitioner (s)

Versus

Haryana Vidyut Prasar Nigam Limited and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashok Jindal, Advocate, for,
Mr. Sanjay Mittal, Advocate, for the petitioner.

Mr. U.K. Agnihotri, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not. Yes
3. Whether the judgment should be reported in the digest ? Yes

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KULDIP SINGH J. (ORAL)

The petitioner Babu Ram joined the office of respondent No. 3-department on 26.4.1973 as Trade Mate on workcharge basis and he worked as such till 19.12.1989. The service of the petitioner was regularized as Helper Grade-I on 19.12.1989. The petitioner worked as such till 11.5.1995. On 12.5.1995, the petitioner submitted his resignation from service on health grounds, which was accepted on the same day on the petitioner paying one month's salary in lieu of notice period. The present writ petition was filed by the petitioner in the year 1998, claiming the grant of pensionary benefits after quashing the impugned order dated 6.10.1998 (Annexure-P-4), vide which the pensionary benefits were declined to him.

In the reply, the respondents have not disputed the facts. However, it is stated that as per Rule 4.19 (a) of the Punjab Civil Services Rules, Volume-II, the resignation entails the forfeiture of the past service

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and no pension is payable.

I have heard the learned counsels for the parties and have also carefully gone through the file.

So far as the workcharge service followed by regularization is concerned, this Court has repeatedly taken the view that this service is to be computed for the purpose of pension. A Division Bench of this Court in Bhakra Beas Management Board and others Versus Raj Kumar and others, 2016 (1) SCT 255 held that the workcharge service followed by the regularization is to be counted for the purpose of grant of pensionary benefits.

So far as the next question as to whether on submitting resignation from service, the past service is to be forfeited and the pension is to be denied ? The matter has been repeatedly examined by this Court. The two different Division Benches of this Court in Om Parkash Versus Financial Commissioner and Principal Secretary to Government of Haryana and another, 2007 (2) SCT 422 and Haryana Vidyut Prasaran Nigam Limited (formely Haryana State Electricity Board) Versus Saroj Bakshi and others, 2016 (1) SCT 584 have taken the view that when the petitioner rendered the service qualifying for pension and submits the resignation, that is deemed to be voluntary retirement.

In view of the established law on the point, it is held that the workcharge service of the petitioner as Trade Mate from 26.4.1973 to 19.12.1989 is to be computed for the purpose of grant of pensionary benefits and that the resignation of the petitioner shall be deemed to be request for voluntary retirement and the petitioner is entitled to pensionary benefits in accordance with the rules and regulations. Since the petitioner

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approached this Court in the year 1998, the interest on arrears at the rate of 9% per annum shall be payable to the petitioner from the date he approached this Court.

The present writ petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

1.12.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes