

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

CWP No. 3408 of 1997

Date of decision: 29.4.2016

Surinder Kumar

... Petitioner

Versus

The Punjab State Electricity Board & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. NK Nagar, Advocate,
for the petitioner.

None for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. No one appears for the respondents despite notice in the cause list. They are ordered to be proceeded against ex parte.

2. Heard Mr. Nagar.

3. This petition has been filed in the year 1997 by a Tracer in the respondent-Corporation, who previously served as a Ferro Printer in the Irrigation Department, Punjab. The petitioner served in the capacity of Ferro Printer from August 24, 1962 to November 6, 1964. Thereafter, he was appointed and selected by way of direct recruitment in the erstwhile Punjab State Electricity Board (presently PSPCL) after applying through proper channel. There was no break in service during the transition from Government to Corporation.

4. The first prayer is for counting the period of service rendered in the office of the Executive Engineer, Sidhwan Division, Irrigation

Department, Ludhiana for the purposes of pension and gratuity by virtue of instructions of the Government of Punjab dated May 20, 1982. These instructions issued by the Department of Finance, Government of Punjab deal with allocation of pensionary liability in respect of temporary service rendered under Government of India and State Government. The instructions deal with the relationship between the Government of Punjab and Government of India on the question of sharing on a reciprocal basis the proportionate pensionary liability in respect of those employees who rendered temporarily service under the Central Government or State Government prior to securing post under the State/Central Government in response to advertisements or circulars including those by the State/Union Public Service Commission and who are eventually confirmed in their new posts. In these circumstances, the period will qualify for the grant of pension under the rules of the respective Governments and will be shared by the Government concerned on service share basis so that the Government employees are allowed the benefit of counting their qualifying service both under the Central Government and the State Government for grant of pension by the Government from where they eventually retired. In paragraph 8 of the petition, it has been categorically asserted that these instructions have been adopted by the respondent-Corporation. In response to the contents of para 8 of the writ petition, the respondents in the corresponding paragraph of the written statement do not deny the assertion. The solitary explanation given for not counting the period is that the service book of the petitioner required verification of the previous service so as to enable the Board to consider

the same for the benefit of pensionary purposes. The blame is put on the petitioner for failure to supply his service book of previous service. The petitioner rebuts the assertion that he was at fault. By way of evidence to refute the statement he has produced letter dated October 19, 1995(Annex P-7) whereby it is acknowledged from contemporaneous evidence by the Executive Engineer, Sidhwan Canal Division, Ludhiana in the letter that the duty certificate of the official bares out that it has been duly verified from August 24, 1962 to November 7, 1964 from the office copies of the pay bills. The aforesaid period is the period in question. Besides, the certificate of past service (PEN-24) placed at Annex P-8 conclusively certifies that the petitioner served on the post of Ferro Printer in the scale of Rs.60-4-120 during the period claimed for enhancing pension.

5. In these set of facts and circumstances, the Court believes that petitioner has amply demonstrated a case for interference and for correction of the apparent error which occurred in not counting his period of service spent in the Irrigation Department with the period served in the Board for purposes of pension and gratuity and its recomputation.

6. That prayer apart, this Court finds no reason to accept prayers (c) & (d) which are trifling issues raised with respect to refund of Rs.4,000/- and for claiming interest for 27-28 days for delayed payment of GPF with respect to prayer (c). These trifling prayers are not sufficient to justify exercise of discretionary writ jurisdiction with no substantial injury caused. Prayer (b) is rendered infructuous since the Title deeds of the property given as collateral property for securing the House Building Advance have been returned to him on repayment of loan with interest.

As a result the petition is partially allowed with respect to prayer (a). A direction is issued to the respondents to refix the pay, pension and gratuity and pay the same to the petitioner within three months from the date of supply of certified copy of this order. In case, the respondents think fit to hear the petitioner personally on any point, they may invite him for hearing by prior notice. Since the petitioner has been deprived of money by non-acceptance of his claim on prayer (a), in the considered view of the Court, he is entitled to claim interest on the enhanced value of pension and gratuity from 1995 [when he retired from service] since the reason for not clubbing the period spent in previous service was held up for the wrong reason and without just cause or legal justification in the presence of instructions instructing the way forward. Accordingly, the newly calculate amount be paid with interest @ 12% from the date of filing of the writ petition i.e. March 10, 1997 till the payment is made. The principal with interest be handed over to the petitioner within two months from the date of furnishing the order.

(RAJIV NARAIN RAINA)
JUDGE

29.4.2016
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