

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

**C.W.P No. 12100 of 2013
Date of decision : 23.05.2016**

Baldev Singh

...Petitioner

versus

Haryana State Electricity Board & ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V.B. Aggarwal, Advocate,
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate
for the respondents.

RITU BAHRI, J.

The present petition is for issuance of direction to the respondents to pay the retiral benefits, C.P.F/Pension, Gratuity, Provident Fund and Leave Encashment etc along with 12% interest.

Petitioner preferred a Labour Court award dated 10.2.1993 reference No. 186 of 1988 under Section 10(1)(c) of the Industrial Disputes Act, which was answered in his favour. The Labour Court by its award reinstated the workman as daily rated labour but as fresh appointee without back wages. The department preferred CWP No. 4608 of 1994 against the award of Labour Court, which was admitted by this Court and no stay was granted in favour of the department. Thereafter, this Court vide order dated 04.11.2011 (P-1) dismissed the writ petition and gave following direction:-

Mr. Punj informs the Court that the respondent-workman has some years of service left in the event of his reinstatement. He also informs that the workman is also in receipt of a sum of Rs.

434/ per month during the pendency of this petition. Since the workman has not questioned the award of the Labour Court, the same is upheld qua non-grant of back wages. As a result of this order, the respondent-workman would be entitled to reinstatement as a fresh appointee forthwith. He would henceforth be entitled to current wages for the post from which his services were terminated.”

Petitioner filed C.O.C.P No. 3444 of 2012 in which XEN, OP Divn, UHBVN Kurukshetra paid a cheque amount of Rs.506078/- on account of wages from 10.02.1993 to 31.11.2012 and thus it is clear that he petitioner had rendered 20 years of service and thus the petitioner is entitled for retiral benefits, as the petitioner is likely to retire on 30.04.2012 on attaining the age of 60 years.

On notice, a written statement has been filed on behalf of the respondents admitting therein that petitioner has worked with respondent-Nigam as a daily wager and his services were dispensed with w.e.f 30.04.2012 on attaining the age of superannuation. But his services were never been regularized and thus as per Punjab Civil Services Rule as adopted by State of Haryana and respondent-Nigam, petitioner is not entitled for pensionary benefits. Reference has been made to Rule 3.12 of the Punjab Civil Services Rules, which reads as under:-

Rule 3.12 thereof reads as under:

“3.12 The service of a Government employee does not qualify for pension unless it conforms to the following three conditions: -

First The service must be under Government.

Second The employment must be substantive and permanent.

Third The service must be paid by Government. “

In compliance of order dated 14.09.2015, affidavit of G.R. Tanwar, Executive Engineer, OP Divn, Kurukshetra has been filed stating therein that the petitioner had not worked from 10.02.1993 to 30.04.2012 and further no similarly situated person has been found to be regularized.

Keeping in view the fact that the petitioner had been paid cheque amount of Rs.506078/- on account of wages from 10.02.1993 to 31.11.2012 in C.O.C.P No. No. 3444 of 2012 and thus, the petitioner has put in 20 years of service and is entitled for retiral benefits, C.P.F/Pension, Gratuity, Provide Fund and Leave Encashment etc.

Accordingly, the writ petition is allowed. Accordingly, respondents are directed to make the payment of retiral benefits i.e C.P.F/Pension, Gratuity, Provident Fund and Leave Encashment etc along with 9 % interest from the due date, within a period of three months, from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

23.05.2016
G Arora