

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 10017 of 2014

Date of decision :January 14, 2016

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Prem Parkash Gupta

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Raman B. Garg, Advocate for the petitioners.

Mr. Gaurav Goel, AAG, Haryana.

Mr. Udeyveer Singh, Advocate for

Mr. Partap Singh, Advocate for respondents no. 2 & 3.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioner is seeking writ of certiorari quashing the impugned order dated 3.3.2014 (Annexure P-16), whereby his claim to grant pension and other retiral benefits w.e.f August 1, 2011 by adding previous service rendered by him with Haryana State Minor Irrigation and Tubewell Corporation Limited (hereinafter referred to as 'the HSMITC Limited') from August 10, 1978 to April 4, 2002 including service from June 1, 1998 to April 4, 2002 with Haryana State Agricultural Marketing Board, Panchkula (hereinafter referred to as 'the Board')-respondent no.2 on deputation has been rejected.

The petitioner was taken on deputation with the Board from HSMITC Limited, Chandigarh as Junior Engineer vide memo No. Admn.III-98/22822 dated 19.5.1998. After taking no objection Certificate from HSMITC Limited, the petitioner P.P Gupta was absorbed on transfer basis as Junior Engineer (Civil) in the Board vide memo dated 5.4.2002. Subsequently the absorptions orders of Sh. P.P Gupta were withdrawn vide office order dated 28.6.2002. Sh. P.P Gupta was relieved w.e.f 30.6.2002 as the Government had decided to close down the HSMITC Limited. He filed CWP No.9740 of 2002 against the order dated 28.6.2002 vide which the absorption order of Sh. P.P Gupta in the Board was withdrawn. Operation of the impugned order dated 28.6.2002 was stayed by this Court vide order dated 3.7.2002 and the case was admitted. During the pendency of the writ petition, the petitioner has retired from service on 31.7.2011. But vide the impugned order dated 3.3.2014 (Annexure P-16), petitioner's claim for grant of service rendered in the HSMITC Limited for calculating his retiral benefits has been declined and one of the grounds is that the writ petition seeking benefit of absorption was still pending consideration.

The respondents in the written statement stated that on CWP No. 9740 of 2002 has since been allowed vide order dated 6.5.2015. As per the above order, the petitioner stood absorbed in the Board.

The impugned order dated 3.3.2014 (Annexure P-16) has to be examined in view of Instructions dated 7.1.2002 (Annexure

P-8) by which the benefit of past services rendered in the Corporation before being taken on deputation are to be counted for retiral benefits. The benefit of these instructions have been awarded to similarly situated employees who were appointed in other Corporations and autonomous bodies and they were given the benefit of the services rendered in their erstwhile Departments for the purpose of pension. In CWP No. 8021 of 2009 titled ` Sher Singh vs. State of Haryana and others', wherein the petitioner had been working with HSMITC Limited previously and appointed in the Urban Estates Department of State of Haryana, this Court directed to count all of his previous service towards pension and other retiral benefits vide order dated 5.3.2010 (Annexure P-11) and further clarification order dated **17.8.2010 (Annexure P-12)**. The SLP No. 33803 of 2010 preferred by the State has also been dismissed on 9.12.2010 by Hon'ble the Supreme Court. This issue has further been decided by a Division Bench of this Court in CWP No.17343 of 2007 titled, `Jai Parkash vs. The State of Haryana and others' vide order dated 28.11.2008 (Annexure P-13), wherein it was held that the previous service of HSMITC Limited shall be counted for computation of retiral benefits of pension etc. SLP No.10712 of 2009 impugning the aforesaid judgment was also dismissed by Hon'ble the Supreme Court on 7.3.2011. This judgment has been consistently followed by this Court in various judgments including CWP No. 3792 of 2012 titled, `Suresh Chand and others vs. State of Haryana and others' and CWP No.11987 of 2015 titled, `Subhash Arora vs. State of

Haryana and another'.

Having regard to the aforesaid and the decision in CWP No. 9740 of 2002 whereby the petitioner stood absorbed permanently in the Board, the impugned order (Annexure P-16) is set aside and the respondents are directed to give the benefit of the past service rendered by the petitioner in the HSMITC Limited from 10.8.1978 to 4.4.2002 (including service from 1.6.1998 to 4.4.2002 with the respondent-Board on deputation) for computation of retiral benefits of pension etc. Another prayer made by the petitioner was for payment of interest on delayed payment of dues. This prayer of the petitioner shall be considered by respondent no.1 by passing a speaking order.

The writ petition is allowed in the above terms.

January 14, 2016
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(**RITU BAHRI**)
JUDGE