

The State in the reply has taken the stand that the said previous workcharge service rendered from 1.2.1972 to 27.4.1982 cannot be counted for pensionary benefits as there was a break of five years in service. The order dated 5.9.2013 (Annexure-P-6) has been passed in this regard.

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

Rule 7.3 (1) (b) of the Punjab Civil Services Rules, Volume-1, Part-1 has been relied upon by the State, which is reproduced as under :-

“7.3 (1) When a Government employee, who has been dismissed, removed, compulsorily retired is reinstated as a result of appeal, revision or review or would have been reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order the reinstatement shall consider and make a specific order :-

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty, including the period of suspension, preceding his dismissal, removal or compulsory retirement as the case may be, and

(b) whether or not the said period shall be treated as a period spent on duty.”

The said rule is not attracted at all in the present case as it was not a case of dismissal, removal or compulsory retirement, but it was a case of retrenchment after completion of workcharge service.

The previous workcharge service period of the petitioner from 1.2.1972 to 27.4.1982 and thereafter from 1.12.1987 till his retirement on 31.1.2011 is not disputed. Admittedly, there was a gap of five years. Now, the question would arise for consideration is that as to whether the previous workcharge service rendered from 1.2.1972 to 27.4.1982 is to be counted as a qualifying service for the purpose of grant of pension after excluding the

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break period. In this regard, the service is to be counted in terms of Rule 3.17-A(1), which is subject to Rule 4.23 of the Punjab Civil Services Rules, Volume-II. The said rule amended with effect from 26.9.1985, before the

petitioner joined the second spell of service, is reproduced as under :-

“4.23. In the absence of specific indication to the contrary in the service record, an interruption between two spells of service rendered under the State Government shall be treated as automatically condoned, and the pre-interruption service shall be treated as qualifying service for pension purposes, except where the interruption has been caused by resignation, dismissal or removal from service or due to participation in a strike, but the period of interruption itself shall, under no circumstances, be reckoned as qualifying service for pension purposes.”

The rule makes it clear that the pre-interruption service is to be treated as qualifying service for pension purposes, except where the interruption has been caused by resignation, dismissal or removal from service or due to participation in a strike, but the interruption period is not to be reckoned as qualifying service for pension purposes. In this case, the petitioner was admittedly retrenched after completing first spell of service on 27.4.1982. Therefore, the case is covered by Rule 4.23 of the Punjab Civil Services Rules, Volume-II (reproduced above) and the service of the petitioner from 1.2.1972 to 27.4.1982 is to be counted as qualifying service for pension purposes. However, the break period is not to be counted as qualifying service for the pension purposes in terms of the said rule. The respondents are directed to re-fix the pension after counting the said period and release the pension accordingly within three months from the date of

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receipt of copy of this judgment. Accordingly, the writ petition is allowed in the abovenoted terms.

(KULDIP SINGH)
JUDGE

20.9.2016
sjks

Whether speaking / reasoned	:	Yes
Whether Reportable	:	Yes