

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CWP No. 10148 of 2015(O&M)****Date of decision: 21.12.2016****Harbhachan Singh****...Petitioner****V/s.****The Punjab State Power Corporation Ltd. and ors ...Respondents****CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI**

Present: Mr. A.K. Walia, Advocate for the petitioner.

Mr. Y.P. Khullar, Advocate for all the respondents.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, the petitioner has questioned the award dated 05.02.2015 passed by the labour Court. Petitioner's grievance is related to counting of work charged employee's service rendered during the period 18.12.1973 to 05.11.1976 for the purpose of extending retiral benefits. The petitioner's services were regularized on 06.11.1976 and he has attained the age of supperannuation and retired from his service on 30.09.2005. Respondent No. 3 has ignored the work charged service to the extent of 2 years, 11 months and 18 days for the purpose of granting retiral benefits like pension, gratuity and other benefits. The labour Court while deciding the application No. 353 of 2013 of the petitioner rejected the claim of the petitioner on the ground of delay in claiming the benefit of work charged service towards grant of retiral benefits since the petitioner retired on 30.09.2005 and the application was filed on 31.10.2013.

Counting of adhoc service/work charged service for the purpose of extending retiral benefits and to extend monetary benefits is a continuing cause of action for the reasons that the petitioner would be getting pension every month if he is getting reduced pension it amounts to

continuous cause of action. Therefore, the labour Court has erred in holding that the petitioner's application is not within the time limit.

Hence, the petition is allowed. The labour Court order dated 05.02.2015 is set aside.

The respondents are directed to count adhoc service from 18.12.1973 to 05.11.1976 for the purpose of granting retiral benefits to the petitioner. Under the provisions of pension rules employees' contribution is required for the purpose of seeking retiral benefits and pension. Admittedly, the petitioner has not contributed his portion towards seeking retiral benefits for the period from 18.12.1973 to 05.11.1976. Therefore, the respondents are directed to issue demand notice for his contribution for the aforesaid period along with interest @ 9% per annum. If the petitioner complies the demand notice for payment of his contribution, thereafter the respondents are directed to recalculate the retiral benefits while taking into account the service of 2 years, 11 months and 18 days as work charged service rendered by the petitioner from 18.12.1973 to 05.11.1976 towards retiral benefits and pay the difference of amount to the petitioner along with interest @ 9% per annum. The above exercise shall be completed by the respondents as well as the petitioner within a period of six months from today.

(P.B.BAJANTHRI)
JUDGE

December 21, 2016
Divyanshi

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**