

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

213A

CWP No. 13517 of 2013(O&M)

Date of decision:17.11.2016

Government Medical College and another

.... Petitioners

Versus

Swaran Singh and another

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. M.S.Naryal, Addl. A.G. Punjab.

Mr. T.S.Sidhu, Advocate with
Mr. Vikas Singh, Advocate for the respondent-workman.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioners have questioned the validity of the order passed by the Industrial Tribunal, dated 15.11.2012.

2. Respondent-Swaran Singh was appointed as a Mate as workcharged employee for the SYL project on 01.03.1985. Thereafter, on 17.04.1998 he was accommodated as a Chowkidar in Government Medical College-petitioner No.1. The respondent No. 1 has been denied increment after completing 8 years and 16 years of service with reference to the date of entry into service i.e. 01.03.1985 in the SYL Project.

3. Thus, respondent No.1 has filed an application before the Industrial Tribunal under Section 33 (c) (2) of the Industrial Disputes Act, 1947 that he is entitled to a sum of Rs.38435/- along with interest. The

Industrial Tribunal allowed the respondent's application that he is entitled to earn increment on completion of 8 years of service and 16 years of service with reference to the date of entry into service as a workcharged employee w.e.f. 01.03.1985.

4. Learned counsel for the petitioner submitted that grant of increment on completion of 8 years and 16 years of service is only with reference to the date of the regular appointment. In this regard, he relies on circular issued by the Government of Punjab dated 01.09.1989 wherein paragraph 6 it is made clear that 8 years or 16 years would be reckoned from the date of appointment on regular basis which reads as under:-

“6. The period of eight or eighteen years is to be reckoned from the date of appointment on regular basis. Service rendered on adhoc basis is not to be counted for the purpose of grant of proficiency step-up(s).”

5. Having regard to the eligibility condition for grant of increment, the respondent-Swaran Singh is not entitled for counting the service from 01.03.1985 to 17.04.1998. The intervening period cannot be counted for the reasons that he was appointed as a workcharged employee and not a regular employee to the post so as to seek that the intervening service of work charge for the purpose of extending proficiency step-up and other service benefits.

6. On the other hand, learned counsel for the respondent-workman submitted that services rendered as a workcharged employee is required to be counted even though, he was regularly appointed on 17.04.1998 while he was working as Mate in SYL project as a workcharged employee.

7. Heard learned counsel for the parties.
8. The Industrial Tribunal erred in holding that the respondent-Swaran Singh is entitled for the relief sought that the service rendered between 01.03.1985 to 17.04.1998 is countable for the purpose of extending like proficiency step up etc. when the circular is specific and clear that 8 years and 18 years would be reckoned from the date of appointment on regular basis for the purpose of extending the benefit of proficiency step up. The same has not been taken note of by the Industrial Tribunal. Thus, the Industrial Tribunal has erred in holding that the respondent-Swaran Singh is entitled for the relief.
9. Accordingly, Industrial Tribunal order dated 15.11.2012 is set aside.
10. CWP stands allowed.

17.11.2016
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No