

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 17370 of 2012 (O&M)

Date of decision : January 8 2016

Yashwardhan Bhalla

.....Petitioner

Versus

PSPCL and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. O.P. Gabba, Advocate
for the petitioner.

Mr. A.P.S. Sandhu, Advocate
for the respondents.

LISA GILL, J.

Petitioner is aggrieved of the action of the respondents in not counting his adhoc service for the period 21.08.1968 to 25.02.1970 as qualifying service for the purpose of re-calculation of pensions/pensionary benefits of the petitioner. Challenge is to letter dated 29.11.2011 (Annexure P-9) as well as reply dated 05.06.2012 to his legal notice.

Brief facts are that the petitioner joined as Lower Division Clerk with Punjab State Electricity Board predecessor of respondent No. 1- Corporation w.e.f. 19.08.1967 on temporary basis for a period of six months. His appointment was renewed for a period of six months with breaks till his regularisation w.e.f. 26.02.1970. Adhoc

service by the petitioner for the period 21.08.1968 to 25.02.1970 was approved by SE, Muktsar. Petitioner admittedly retired from service on 30.09.2001 from the post of Assistant Accounts Officer. While affording pension to him, period of service of the petitioner was counted as 31 years 7 months whereas petitioner claims that adhoc service of one year, five months and 20 days bringing total period of qualifying service to 33 years 24 days is the correct calculation. It is submitted that in case the above said period had been counted, pension towards petitioner would increase by about ₹160/- per month.

After a lapse of about 10 years from his retirement, petitioner submitted a representation, Annexure P-5 on 30.09.2011.

Petitioner was informed vide impugned memo dated 29.11.2011 that an employee is entitled to benefit of adhoc service in case he fulfils the terms and condition of the Board at the time of entry. According to the entry in his service book, he did not fulfil the minimum qualification of Matriculation with Punjabi as a subject. Additional subject of Punjabi was passed by him in March 1969 whereas he had joined adhoc service in 1967. Due to non-fulfilment of qualification for appointment of Lower Division Clerk, necessary benefit was not afforded to him. Furthermore, Matriculation certificate from the employee was being demanded but the same was not forthcoming. Thereafter legal notice dated 25.04.2012 (Annexure P-8) was served by the petitioner upon the respondents. In reply thereto, on 05.06.2012 (Annexure P-10) the same position was

reiterated.

Learned counsel for the petitioner while relying on various judgments submits that approved adhoc period of service from 21.08.1968 to 25.02.1970 should be included in the period of qualifying service for the purpose of pension/pensionary benefits. In case this period is included, petitioner stands to gain by some increase in the quantum of his pension.

Preliminary objection has been raised that this writ petition is liable to be dismissed on the ground of delay and laches and furthermore petitioner did not fulfil minimum qualification of having cleared Matriculation examination with Punjabi as a subject. He admittedly cleared the said examination in March, 1969.

Having heard learned counsel for the parties, it is clear that delay on part of the petitioner cannot be ignored. Petitioner admittedly retired on 30.09.2001. There is nothing on record to suggest that he had ever raised such a claim before 2011. Petitioner has failed to explain the colossal delay in staking his claim. There is nothing on record to justify this delay. It is undisputed that petitioner has been receiving his pension since the date of his retirement. Present is not a case of denial of pension due to non counting of adhoc service prior to regularisation for purposes of pension/pensionary benefits.

Division Bench of this Court in **Er. Darshan Singh Bhullar versus Punjab State Electricity Board 2011 (3) SLR 287**

has held that when a particular benefit is available to an employee,

he should approach the Court within a reasonable time. Though period of limitation for filing of a writ petition is not prescribed, it is to be a reasonable period within which the employee should approach the Court. Similarly in **Harnam Singh versus State of Punjab and others 2014 (3) SCT 353** where an employee prayed for certain benefits which he claimed entitlement to, was dismissed on the ground that petition had been filed 13 years after his retirement. No satisfactory reason or explanation for the delay was forthcoming due to which said writ petition was dismissed.

In the instant case as well, there is no plausible explanation coming forth for the delay. Petitioner is not entitled to any relief in the present proceedings, having slept over his rights all this while.

Consequently, this writ petition is dismissed.

January 8, 2016
rts

(Lisa Gill)
Judge