IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11757 of 2014
Date of Decision:- 06.05.2016

Ram Dutt

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

1. Whether Reporters of local papers 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?

Present: Mr. Munish Mittal, Advocate,
for the petitioner.

Mr. M.S. Sidhu, Assistant Advocate General, Haryana.

None for respondent Nos.2 and 3.

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RITU BAHRI, J. (Oral)

Petitioner is seeking quashing of order dated 25.02.2014 (Annexure P-8) whereby the respondents have declined to count the services rendered by him in BCB/BBMB from 1977 to 07.02.1992 for the purpose of pensionary and other benefits.

Petitioner has joined on 08.02.1992 on work charge basis and thereafter his services were regularized on 01.01.1994 by the HVPN Ltd. He was superannuated on 31.10.2003 while working on the post of driver. The

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petitioner made a claim to the respondents to grant him work charge service for the purpose of pensionary benefits and a legal notice in this regard had also been sent to the department on 13.08.2012 (Annexure P-1). As per reply to the legal notice dated 14.09.2012 (Annexure P-2), the period of work charge has already been counted for the purpose of pensionary benefits. Thereafter, the petitioner sent a letter dated 12.10.2012 (Annexure P-3) claiming therein the benefit of work charge service rendered by him in BCB/BBMB from 1977 to 07.02.1992 for the purpose of pensionary benefits as per the judgment of this Court in case **Dakshin Haryana Bijli Vitran Nigam and others** Vs. **Bachan Singh**, **2010(1) RSJ 274**. In this regard, the petitioner has again sent a legal notice dated 11.04.2013 (Annexure P-4) but no action has been taken thereon by the respondent's department. Thereafter, the petitioner filed a CWP No.24978 of 2013, which was disposed of on 14.11.2013, by giving directions to the respondents to decide the legal notice by passing a speaking order and taking into consideration the judgment of Supreme Court in **Bachan Singh's** case (supra), within a period of three months. In compliance of said order, the rejection order dated 25.02.2014 (Annexure P-8) has been passed. Hence, the present writ petition before this Court.

Vide order dated 30.06.2014, the present petition was dismissed by this Court. However, the LPA Bench allowed the appeal and set aside the order passed by the learned Single Judge and remitted the case back for final disposal on merits after giving liberty to the respondents to file reply. On 04.05.2015, the matter was adjourned to 31.08.2015 and no reply has been filed by the respondents till date.

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In **Civil Writ Petition No.383 of 2007** titled **Smt. Salochan**

Devi Vs. **State of Punjab and others**, **decided on 05.04.2010**, a Co-ordinate Bench of this Court was examining the case of one Dilbag Singh, who worked as a Dumper Operator with the Bhakra Dam when it was being constructed on river Sutlej in Himachal Pradesh as a joint venture of the Central Government and the State of Punjab. He had joined as a Dumper Operator in the work-charged capacity at Ranjit Sagar Dam Project on 5.10.1986 and retired on 31.10.1996 after attaining the age of superannuation. As per the discharge certificate (Annexure R-II), the deceased-husband of the petitioner was enrolled in Anandpur Sahib Hydel Project on 27.12.1981 and he worked as such till 3.6.1985. The husband of the petitioner firstly worked as Dumper Operator w.e.f. 27.12.1981 to 30.6.1985 and thereafter from 25.10.1986 till he retired on attaining the age of superannuation w.e.f. 31.10.1996. The actual service came to be more than 10 years. The completion of the project was interruption in the continuity of service of petitioner's husband. As per Rule 4.23 of the Civil Services Rules, Volume-II, any interruption between two spells of service rendered under the State Government was to be treated as automatically condoned and pre-interruption service was to be treated as qualifying service for pension purposes. Consequently, the writ petition was allowed with costs of ₹10,000/- and the respondents were directed to calculate the arrears of pension to which the deceased-employee was entitled to as well as those of the family pension payable to the petitioner w.e.f. 3.2.2003 and release the same along with interest @ 9% per annum.

In the present case the respondents have not chosen to file written statement. The respondents while rejecting the case of the petitioner have accepted that the petitioner had joined the BEAS Construction Board

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Power Wing and he continued work till 07.02.1992. The initial date of his appointment in the BEAS Construction Board Power Wing has not been stated in the order dated 25.02.2014 (Annexure P-8) and the petitioner has been given the benefit of work charge service w.e.f. 01.01.1994. Further reference can be made to a letter dated 05.03.2014 (Annexure P-7), written by the Executive Engineer HVPN, Kurukshetra, to the EPF Commissioner, Karnal, whereby the information was sought to confirm the EPF number of the petitioner for consideration of work charge service towards pensionary benefits period from 02.02.1977 to 03.01.1991. As per the detailed supply by the Regional Commissioner of Provident Fund, vide letter dated 05.03.2014 (Annexure P-7), the total payment of ₹25,196/- was made to the petitioner on 04.06.1992. Hence, perusal of the record clearly shows that the petitioner was worked on work charge basis with the BEAS Construction Board w.e.f. 02.02.1977 to 03.01.1991 and he had been retrenched on 07.02.1992.

Applying the ratio of above-said judgment of this Court in **Smt. Salochan Devi' case (supra),** the service rendered on work service basis is required to be clubbed with the service rendered with the HVPN Ltd. as per Rule 4.23 of CSR, Vol.II, which reads as under: -

> "4.23. In the absence of a 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 above-said rule has already been considered by a Co-ordinate Bench of this Court. Accordingly, the present writ petition is

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allowed with costs of ₹25,000/- and directions to the respondents to count the service from 02.02.1977 to 07.02.1992 on work charge basis for counting the retiral benefits. The said exercise shall be completed within a period of three months from the date of receipt of certified copy of this order.

May 06, 2016 (**RITU BAHRI**)
naresh.k JUDGE

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