

CWP No. 11367 of 2015 (O/M)

Memo dated 30.10.1989 (Annexure-P-4). The Department of Finance, Government of Punjab, issued another Instructions on 6.2.1991 (Annexure-P-5) regarding giving of pensionary benefits of work-charge service of Government employees, who have done work before 1.1.1986. Vide office order No. 1, dated 9.1.1997 (Annexure-P-9), the services of the petitioner were again converted from daily wage to work-charge. Vide office order No. 76, dated 28.6.2010 (Annexure-P-10), issued by the Executive Engineer/Transmission, Sub Urban Division, Punjab State Power Corporation Limited Lalton Kalan, Ludhiana, the date of appointment of the petitioner was shown as 31.7.1999, whereas as per the service book, the date of appointment of the petitioner was 29.6.1979 as work-charge T-Mate. The petitioner is shown to have retired on attaining the age of superannuation. The petitioner also claims that he had also filed a civil suit (Civil Suit No. 312 of 5.11.1998, decided on 5.11.2009, titled as Balwinder Singh Versus Punjab State Electricity Board and others), praying for regularization of his service as he has completed 240 days with all consequential benefits. His suit was dismissed and the appeal preferred by him was also dismissed. The petitioner had also approached this Court by way of filing CWP No. 9494 of 2012 for grant of pensionary benefits after considering the entire service rendered by him on work-charge basis, but the prayer of regularization was not incorporated in the same. This Court, vide order dated 13.1.2015, directed the respondents to file an affidavit regarding the details of period that the petitioner had worked with them on either daily wage or work-charge or in any other capacity. The respondents accordingly filed an affidavit wherein till the date of his retirement i.e. 30.4.2010, the petitioner was shown to have completed

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16 years, 10 months and 9 days of his service. During the pendency of the said petition, the respondents passed the order in compliance with the order passed by this Court on 21.5.2012, rejecting the claim of the petitioner that he retired on 30.4.2010 as work-charge employee and that his services could not be regularized. The office order No. 5, dated 11.5.2010 (Annexure-P-16), was issued. Accordingly, on 27.4.2015, the petitioner withdrew the said petition with liberty to file afresh on the same cause of action, claiming the regularization of his services also.

In the written statement, while referring to the dismissal of earlier civil suit (Civil Suit No. 312 of 5.11.1998, titled as Balwinder Singh Versus Punjab State Electricity Board and others, decided on 5.11.2009), filed by the petitioner for regularization of his services, a chart was given, giving month-wise breakup of service of the petitioner. It is stated that he worked for a few months in the years 1979 and 1980. Thereafter, he was retrenched from service in May, 1980. Therefore, his service was not continuous one, which is mandatory requirement, as per the Government policy dated 31.8.1989.

During the course of arguments, the learned counsel for the petitioner has restricted his prayer only for pensionary benefits due to continuous service with effect from December, 1996 when he had continuously worked for 240 days in each year.

I have heard the learned counsel for the petitioner, the learned counsel for respondents and have also carefully gone through the file.

The petitioner has been retired, treating his date of appointment as 31.7.1999. The perusal of affidavit of Baljinder Singh Sidhu, Additional S.E. PSPCL, Lalton Kalan, Ludhiana, shows that the details of work-charge

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service verification chart of the petitioner Balwinder Singh has been given. The perusal of the chart shows that the Department claims that the petitioner retired on 30.4.2010 after completing 60 years of age and his total service period is 16 years, 10 months and 9 days. However, the said chart also shows that from 12/96, the petitioner completed 240 days in each year. From the period 12/96 to 12/98, the total working days are 761. From the period 1/99 to 12/99, the total working days are 320 and so is the position of the subsequent years. The petitioner does not seek the regularization of service, but prays that his continuous service as work-charge be taken into account for payment towards pensionary benefits. This Court in Kulwant Singh and others Versus Punjab State Power Corporation Limited and another (CWP No. 21889 of 2011, decided on 17.2.2012) allowed such relief relying upon the Full Bench authority of this Court in Kesar Chand Versus State of Punjab and others, 1989 (1) RSJ 629 (FB), wherein it was held that the work-charge service followed by regularization is to be counted towards qualifying service for the purpose of pension and other retiral benefits. In the present case, since the petitioner continuously worked as work-charge employee with effect from 12/96, therefore, his services from 12/96 onwards are to be treated as qualifying service for the purpose of grant of pensionary benefits. The present petition is allowed to the abovenoted extent. The respondents are directed to release the pensionary benefits in the abovenoted terms within three months from the date of receipt of copy of this order. The arrears shall be paid at the rate of 9% per annum interest from the date due till payment.

(KULDIP SINGH)
JUDGE

19.7.2016
sjks