

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 16536 of 2013(O&M)

Date of Decision: January 27 , 2016.

Harbhajan Singh through his Power of Attorney
holder, Jagmohan Singh

..... PETITIONER (s)

Versus

The Punjab State Power Corporation Limited
and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. J.S.Jaidka, Advocate
for the petitioner.

Mr. Rajiv Malhotra, Advocate
for the respondents.

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?

LISA GILL, J.

Petitioner being aggrieved of order dated 10.10.2012, Annexure P9, has preferred this writ petition. It is prayed that increments earned by the petitioner during his sanctioned leave period be considered towards calculation of his pension and necessary arrears be released to him.

This writ petition has been filed by the petitioner through his

power of attorney holder, Jagmohan Singh as the petitioner is residing in Australia.

Undisputed facts are that, petitioner was appointed as a Sub Station Attendant with the respondent w.e.f. 23.11.1970. Petitioner was on Ex-India leave from 18.11.1997 to 22.10.2000. Leave sanctioned to him is as under:-

18.01.1997 to 12.10.1998	= 329 days (full pay)
13.10.1998 to 15.03.2000	= 520 days (half pay)
16.03.2000 to 22.10.2000	= 221 days (EOL)

He joined his duty on 23.10.2000 and worked till 15.11.2000. In the interregnum, he sought voluntary retirement. He was permitted to retire on 16.11.2000. Petitioner prayed for the benefit of the increments earned during the said leave period towards his pension. He preferred CWP No.4696 of 2012, which was disposed of on 06.01.2012 (Annexure P8) by this Court with a direction to the competent authority to decide the petitioner's representation.

Pursuant thereto impugned order dated 10.10.2012 (Annexure P9) was passed, whereby the benefit claimed was denied to the petitioner on the ground that in the light of rule 6.24(2) of the Punjab Civil Services Rules, Vol.II, the increments earned during the leave period cannot be reckoned for the purpose of average emoluments for calculation of pensionary benefit.

Learned counsel for the petitioner submits that rule 6.24(2) of

Punjab Civil Services Rules does not prohibit grant of said benefit which has been wrongly denied to the petitioner.

Learned counsel for respondent, on the other hand, defends the impugned order and prays for dismissal of the writ petition, while pleading absence of any ground for grant of relief to the petitioner.

I have heard learned counsel for the parties and gone through the file.

Rule 6.24(2) of the Punjab Civil Services Rules, Vol.II reads as under:-

“6.24(2) If during the last ten month of his service a Government employee has been absent from duty, on leave with leave salary, and also on extraordinary leave which counts for pension or having been suspended, has been reinstated without forfeiture of service, his emoluments, for the purpose of ascertaining the average, should be taken at what they would have been had he not been absent from duty or suspended: provided always that, except as provided in Note 1 his pension must not be increased on account of increase in pay not actually drawn.

Note: In the case of a Government employee who during the currency of leave preparatory to retirement upto 180 days on full pay was on earned leave during the last ten months of service had earned an increment which was not withheld during the currency of the earned leave not exceeding one hundred and twenty days, or during the first one hundred and twenty days of any period of earned leave exceeding one hundred and twenty days, such increments, though not actually drawn, shall be included in the average emoluments.”

Impugned order clearly mentions that since petitioner joined on 23.10.2000 after availing leave from 18.11.1997 to 22.10.2000 and was drawing a basic pay of ₹12,900/-, before proceeding on leave he was drawing basic pay of ₹11,750/- w.e.f. 01.01.1997, therefore his average emoluments for nine months and 6 days are worked out as ₹11,750/- and for 24 days on basic pay of ₹12,900/- i.e., from 23.10.2000 to 15.11.2000, the date when he retired voluntarily from service.

Rule 6.24(2) is clear that when an employee is on leave during the last ten months of his service, then his pension must not be increased on account of pay not actually drawn. Petitioner's pension has been worked out in a manner that for 24 days when he rejoined his duty after availing leave, ₹12,900/- has been taken as his basic pay and for rest of the period, ₹11,750/- has been taken as his basic pay.

Contention of the petitioner that he had earned all increments in 1998, 1999 and then 2000 as reflected in Annexure P5 is specifically explained in the written statement in reply to Para 6 and 7. It is categorically asserted that Annexure P5 is not a complete reproduction of the original entry wherein, it is clearly written that arrears of increments will be payable w.e.f. 23.10.2000. Increments which the petitioner earned during his leave period would not be counted towards pension payable to him, when he joined on 23.10.2000. It is averred by the respondents that petitioner has tried to mislead this Court by concealment of relevant facts. No replication has been filed by the petitioner to controvert the said facts. Be that as it may, learned counsel for the petitioner is unable to point out

any illegality, irregularity or infirmity in the impugned order dated 10.10.2012, Annexure P9, which warrants interference by this Court.

Consequently, this writ petition is dismissed.

January 27 , 2016.
'om'

**(LISA GILL)
JUDGE**