

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 21152 of 2012 (O&M)
Date of Decision:- 18.02.2016

Gurcharan Singh

....Petitioner

Versus

Haryana Power Generation Corporation Ltd. and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.S. Rana, Advocate,
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate
for respondent Nos.1 to 3.

Mr. Vinod Verma, Advocate
for respondent No.4.

RITU BAHRI, J. (Oral)

The petitioner is seeking directions to the respondent(s) to count the work charge service rendered by him for the purpose of grant of pension and pensionary benefits and to release the same on the basis of last pay drawn by him in Bhakra Beas Management Board-respondent No.4 (for short 'the B.B.M.B.').

Initially, the petitioner was appointed as T-Mate on work charge basis at the B.B.M.B., Jamalpur, District Ludhiana on 07.10.1966.

On 03.09.1980, he was transferred to work in the B.B.M.B., Panipat by the

Haryana State Electricity Board (for short 'the Board') and his services were regularized on 01.04.1982 by the Board. The petitioner was drawing a basic salary of ₹9,700/- in the B.B.M.B. At the time of his retirement, his pay was fixed by the Haryana Govt. as ₹7,750/-. The grievance of the petitioner is twofold: (i) the entire work charge service rendered by him in B.B.M.B. w.e.f. 07.10.1966 to 10.07.1968 should be counted towards pensionary benefits and (ii) as per judgment of this Court in **Raja Ram Malik and anothers Vs. Haryana Vidyut Prasaran Nigam Ltd., 2008(2) S.C.T. 381**, the last pay drawn by him in the B.B.M.B. should be made the basis for pensionary benefits.

Written statement has been filed on behalf of respondent Nos.1 to 3 and 4.

In the written statement filed by respondent No.4, it was stated that the petitioner has rendered work charge service w.e.f. 07.10.1966 to 31.03.1982 in different offices of the B.B.M.B. Thereafter, he was freshly appointed as Crane Driver on regular basis by the Board now Haryana Power Corporation Ltd. w.e.f. 01.04.1982 and retired on 30.11.2006 as Foreman Special after attaining the age of superannuation i.e. 58 years from the B.B.M.B. He was transferred to the B.B.M.B. on 14.10.1985 and he retired from the B.B.M.B on 30.11.2006. Respondent No.4, vide letter dated 11.04.2013 (Annexure R-1), had sent a recommendation to count the work charge service rendered by the petitioner w.e.f. 07.10.1966 to 31.03.1982 for grant of pensionary benefits.

In pursuance of order of this Court dated 01.09.2015, an affidavit has been filed on behalf of respondent Nos.1 to 3, in which, it was

stated that after getting due verification, the case of the petitioner has been considered and revised pensionary benefits papers after including the period 07.10.1966 to 09.07.1968 were forwarded to pensioning authority, vide letter dated 15.04.2013 (Annexure R-7). In the written statement earlier filed, respondent No.1 had accepted that the petitioner has been granted the pensionary benefits, vide revised PPO dated 15.04.2010 (Annexure R-4) after including the work charge service rendered by him w.e.f. 10.07.1968. After combined reading of Annexures R-4 and R-7, this Court comes to the conclusion that for all intents and purposes the service of work charge rendered by the petitioner has been taken to be w.e.f. 07.10.1966.

The second question which requires for consideration now would be the date of appointment on work charge service which could be taken as 07.10.1966 and whether the petitioner can be granted the pension on the last pay drawn by him in the B.B.M.B. as per judgment of **Raja Ram Malik and another** case (supra).

The government of Haryana issued notification dated 12.08.2002 (Annexure R-3) for grant of pensionary benefits to the employees on Foreign Service/Deputation/BBMB/Chandigarh Administration. As per notification, Category 'D' deals with the employees of BBMB. The BBMB was created under Part VIII of the Punjab Reorganization Act, 1966 for the administration, maintenance and operation of the Project with the rights of the successor states defined therein. Sections 79(4) of the Reorganization Act deal with the issue of staff and establishment of the Project. In so far as the employees covered

under this category are concerned i.e. those who are deputed to serve with the BBMB under the share quota posts allocated to the successor states under the statutory scheme. It has been further observed that pay scales allowed for different categories of employees with the BBMB are higher than those approved by the State of Haryana for those categories serving in the state. However, the employees deputed to serve under the BBMB are allowed to opt for the BBMB pay scales for the period they serve as such. It was decided that pension of all those employees who statutorily stood transferred to the BBMB as on 01.11.1966 in terms of Section 79(4) of the Reorganization Act and allocated to the State of Haryana should be fixed on the basis of emoluments drawn by them under the BBMB at the time of their retirement and the employees who have been deputed to the BBMB by the Government of Haryana after the appointed date i.e. 01.11.1966 are not entitled to get their pension fixed on the basis of emoluments drawn by them in the BBMB as held by the Division Bench of the Hon'ble Punjab & Haryana High Court in CWP No.5457 of 2001 and their pension will be fixed in accordance with the provisions contained in Rule 6.19(c) (iii) & (iv) of CSR Vol.II as applicable to the State of Haryana.

There is no dispute in the present case that the petitioner had joined on work charge service with the B.B.M.B. w.e.f. 07.10.1966. Hence, for all intents and purposes he is covered under the category of employee who were allowed to opt for the BBMB pay scales as on 01.11.1966 and his pension is to be fixed on the last pay drawn by him in BBMB from where he retired.

In this regard, learned counsel for petitioner has placed

reliance upon judgment from Division Bench of this Court in Raja Ram Malik and another case (supra).

The main issue has also been considered by this Court in CWP No.6768 of 1996 titled 'Nirmal Singh Vs. State of Punjab and others and further the same has been followed by this Court in CWP No.5457 of 2001 titled Surjit Singh Vs. State of Punjab, decided on 27.09.2001.

In view of above, the present writ petition is allowed and directions to the respondent Nos.1 to 3 are issued to revise the pensionary benefits by taking the work charge service rendered by the petitioner w.e.f. 07.10.1966 and on the last pay drawn by him in the B.B.M.B. at the time of his retirement. This exercise should be completed within three months and thereafter the compliance report be sent to this Court.

February 18, 2016
naresh.k

(RITU BAHRI)
JUDGE