

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.18549 of 2013(O&M)

Date of decision: 5.1.2016

Er. Harish Chander Sharma

... Petitioner

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. HS Saini, Advocate,
for the petitioner.

Mr. Vaibhav Sharma, D.A.G., Punjab.

Mr. Sumit Gupta, Advocate,
for respondent No.3.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The weight of judicial opinion on the subject matter leans heavily in favour of the petitioner to secure him the benefit of past service rendered in the Beas Satluj Link Project with the service spent in the Punjab State Electricity Board for the purposes of pension and pensionary benefits. Even in a case where the Board has made a selection and appointed person to its service, past service becomes part of qualifying service for pension. See, **S. C. Kapuria v. Punjab State Electricity Board and others**, 2007(3) SLR 769, holding as much that past service rendered would be counted towards pensionary benefits. The Division Bench in *Kapurja's* case considered the law laid down by this

Court in its earlier dicta in **R. P. Singla v. State of Punjab**, 2002(3) RSJ 504 and several other unreported decisions mentioned in para.6 of the judgment in *Kapuria*. The SLP against the order passed by the Division Bench was dismissed by the Supreme Court on November 19, 2012 in case titled **Director of Agriculture Punjab v. S. C. Kapuria and others**.

Besides, the petitioner also relies on the decision of the Single Judge delivered in CWP No.1895 of 2012, **Er. Kuldeep Chand Bali v. State of Punjab and others**, decided on July 3, 2013. The said case dealt directly with the same issue arising by continuity from the Beas Construction Board/Beas Satluj Link Project to the Punjab State Electricity Board presently known as the Punjab State Power Corporation Ltd. (PSPCL). Learned Single Judge relied on the law laid down by the Supreme Court in **Punjab State Electricity Board and others v. Narata Singh & anr.**, 2010(2) SCT 732, to grant relief as is claimed in this petition, a copy of which has been appended to the paper-book and found at page 65. The learned single Judge while allowing the petition did not close the proceedings and kept them open to consider imposition of exemplary costs on the Board in denying the claim to other employees other than those who have received favourable orders handed down by this Court, including of the Supreme Court. A direction was issued to the respondents to furnish names of the officers who had taken a decision adverse to the law settled by the Supreme Court. The Court also required names of those officers who had taken the decision to file appeals and especially the petitions in the Supreme Court after the decision of the Supreme Court itself in *Narata Singh's case* and contrary to the orders

passed in Letters Patent Appeal (*supra*). The Corporation/Board carried an internal appeal before the Division Bench in LPA 1872 of 2013 which was dismissed on November 13, 2013. The order is placed on record in C.M. No.12793 of 2015 (at page 11 thereof). The vital observation has come in the order in letters patent appeal, that the learned Single Judge in his order dated July 3, 2013 has not rejected the Corporation's claim regarding apportionment of the liability on the Central Government towards share in pension, if so arises under any circular or statute. The order passed by the learned Single Judge in *Kuldeep Chand Bali's case (supra)* has been held not to preclude the petitioner Corporation to raise such a claim, if so permissible under the law. With this protection afforded to the Corporation, hardly any *lis* remains between the parties and the petitioner would have to be accorded parity of treatment with those cases which have been decided in favour of the appellants.

For the foregoing reasons, this writ petition is allowed. The impugned order dated June 27, 2013 (Annexure P-11) is quashed. The period of service spent in the Beas Satluj Link Project will be counted towards pensionary benefits as mentioned by the learned Division Bench in the appeal. The Corporation is directed to make good the pensionary benefits after re-calculating the last pay of the petitioner. The exercise be carried out within a period of 3 *months* from the date of receipt of certified copy of this order with a direction to pay the arrears accordingly within the same time frame. Needless to say that the Corporation would remain free to recover the share of money *pro rata* from the Central Government, if the law permits. The arrears of pension etc. will accrue

and be liable to be paid with simple interest @ 6% calculated till realization from 36 months prior to the filing of the writ petition.

(RAJIV NARAIN RAINA)
JUDGE

5.1.2016
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