

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

**CWP No.19068 of 2014 (O&M)
Date of decision : September 27, 2016**

Jai Singh **Petitioner**

Versus

State of Haryana and others **Respondents**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Nonish Gupta, Advocate for
Mr. Vimal Kumar Gupta, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner, who was serving as a Tax Collecior in Panchayat Samiti, Rajound, District Kaithal, remained under suspension from 03.04.1976 to 15.02.1978 and thereafter, his services were terminated. He was reinstated on 27.10.1980, vide order Annexure P-6 and the post termination period of his service was ordered to be treated as leave of the kind due and the petitioner was not held entitled for any back wages etc. for his post termination period. Petitioner again remained under suspension from 21.08.2003 to 21.08.2004.

The prayer of the petitioner is that the aforesaid two periods of suspension should be treated as qualifying period of service for the purpose of grant of pensionary benefits.

The respondents in the written statement had taken the stand that so far as the period 21.08.2003 to 21.08.2004 is concerned, the same has been treated as duty period and has been counted as qualifying service

for pension, whereas the period 03.04.1976 to 15.02.1978 is concerned, it is stated that leave of the kind due was granted under Rule 4.7 of the Civil Services Rules, Volume-II. The period for extraordinary leave without pay cannot be counted as qualifying service for pension.

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

The order dated 28.02.2012 (Annexure P-4) shows that only the period from which the petitioner remained out of service was treated as leave of the kind due. However, the petitioner remained under suspension from 03.04.1976 to 15.02.1978, regarding which the benefits of counting the same towards qualifying service, has been rejected.

Undisputedly, the petitioner was getting subsistence allowance for the period during which he remained under suspension i.e. from 03.04.1976 to 15.02.1978. Since, the petitioner was getting subsistence allowance for the period from 03.04.1976 to 15.02.1978 and on his reinstatement, this period is ordered to be counted as qualifying service for the purpose of the pension of the petitioner.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

September 27, 2016

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Whether speaking / reasoned Yes

Whether Reportable: No