

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 21979 of 2013

Date of Decision : March 17, 2016

Hari Singh Petitioner
vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Rajesh Bansal, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

* * *

DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks counting of the service rendered by him from 07.01.1976 till 04.08.1978, towards pensionable service.

The undisputed facts, which have emerged after hearing counsel of the parties and perusal of the record are that the petitioner was appointed as S. S. Master on adhoc basis on 07.01.1976 and he continued as such till 21.04.1976. Thereafter, there was a break in his service for 03 months and 18 days as he was re-appointed again on adhoc basis on 10.08.1976. This time, he served till 15.03.1977. Thereafter, there was

another gap in his service for 06 months and 15 days as he re-joined service on the same status as above on 30.09.1977 and served the respondents till 29.03.1978. After a gap of one day, he was again appointed on 31.03.1978 till 04.08.1978. From 05.08.1978 till 06.09.1984 – for a period of 06 years, 01 month and 02 days, the petitioner admittedly did not serve the respondents and re-joined service on 07.09.1984. Thereafter, vide order dated 01.04.1987, the petitioner's service was regularized w.e.f. 01.11.1986. On attaining the age of superannuation, the petitioner retired on 30.04.2006. The present petition has been filed seeking a direction to the respondents to count the service of the petitioner rendered by him on adhoc basis from 07.01.1976 to 04.08.1978, towards pensionary benefits.

After hearing counsel for the parties and perusal of the record of the case, I am of the opinion that the petitioner does not deserve any relief.

In the written statement filed by the respondents, it is their categorical stand that the petitioner, from 05.08.1978 to 06.09.1984, abandoned his service. This fact, having not being controverted by way of any replication, would have to be accepted. That being so, the period of service prior to the huge gap of 06 years, 01 month and 02 days, when the petitioner voluntarily chose not to serve the respondents, in view of the provisions of Rule 3.17 A (e) and Rule 4.23 (i), (ii) and (iii) of the Punjab Civil Services Rules, Volume II (as applicable to the State of Haryana) (hereinafter referred to as – the Rules), cannot be allowed to be counted towards pensionary benefits. Rule 3.17 A (e) and Rule 4.23 (i), (ii) and (iii)

of the Rules are reproduced below for ready reference :-

“3.17 A – (e) *An interruption in the service of a government employee caused by willful absence from duty and unauthorized absence without leave will as hitherto entail forfeiture of past service.”*

xx xx xx xx

“4.23 – *Interruptions in service (either between two spells of permanent or temporary service or between a spell of temporary service and permanent service or vice versa) in the case of an officer retiring on or after the 5th January 1961 may be condoned, subject to the following conditions :-*

- (i)** *The interruption should have been caused by reasons beyond the control of Government employee concerned.*
- (ii)** *Service preceding the interruption should not be less than five years duration. In cases where there are two or more interruptions, the total service, pensionary benefits in respect of which shall be lost if the interruption are not condoned, should not be less than five years.*
- (iii)** *The interruption should not be more than once year duration. In cases where there are two or more interruptions, the total period of all the interruptions to be condoned should not exceed one year.”*

A perusal of Rule 3.17 A (e) very clearly reveals that

interruption in the service of an employee caused by willful absence from duty would entail forfeiture of past service. Similarly, as per Rule 4.23 (i) of the Rules, the interruption in two spells of service can only be condoned if the same has been caused by reasons beyond the control of the Government employee concerned. In the case in hand, this is not so as it is the accepted fact that for the gap period of over 06 years, 01 month and 02 days, the petitioner voluntarily chose not to serve the respondents. Further, as per Rule 4.23 (ii) of the Rules, the service preceding the interruption should not be less than five years duration and as per Rule 4.23 (iii) of the Rules, the interruption should not be of more than one year duration. Both these conditions are also not met in the case in hand.

Thus, in view of the afore-noticed facts and provisions of the Rules, as discussed above, the petitioner is held not entitled to the grant of benefit of the period of service rendered by him between 07.01.1976 and 04.08.1978, towards pensionary benefits.

In view of the above, finding no merit in the present writ petition, the same is hereby ordered to be dismissed with no order as to costs.

(DEEPAK SIBAL)
JUDGE

March 17, 2016

monika