

The petitioner joined as a Tubewell Operator in the capacity of work charge employee in the Irrigation Department, Government of Punjab, Tubewell Division on 21.9.1970. It comes out that he worked there till 31.5.1974 and thereafter, he did not attend his duties from 1.6.1974 to 6.2.1976 as work charge employee and had either remained absent or deemed to have been terminated or not employee. Thereafter, he was again given fresh appointment with effect from 7.2.1976 on work charge basis and he worked there till 9.12.1983. In the meanwhile, his services were regularized with effect from 1.8.1982. Thereafter, he was appointed in Punjab State Tubewell Corporation Limited, which is a semi Government Organization with effect from 10.12.1983 and worked there till his retirement on 28.2.2010. It also comes out that his job in Punjab State

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Tubewell Corporation is not pensionable. There is no dispute regarding the retiral benefits, as admissible to the petitioner, which have been paid to him.

The claim of the petitioner is that his two spells of service i.e. first spell from 21.9.1970 to 31.5.1974 and the second spell from 7.2.1976 to 9.12.1983 in the Irrigation Department, Punjab Government, should be counted together for the purpose of computing this period for qualifying pension on the basis of Rule 4.23 of the Punjab Civil Services Rules.

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

Rule 4.23 of the Punjab Civil Services Rules provides as under :-

“Rule 4.23. In the absence of a specific indication to the contrary in the service record, an interruption between two spells of service rendered under the State Government shall be treated as automatically condoned, and the pre-interruption service shall be treated as qualifying service for pension purposes, except where the interruption has been caused by resignation, dismissal or removal from service or due to participation in strike, but the period of interruption itself shall, under no circumstances, be reckoned as qualifying service for pension purposes.”

Now, the question is as to whether the two spells of service by the petitioner under the Irrigation Department of Punjab Government are to be combined together for the purpose of computing his eligibility for pension after ignoring his non service/termination/absence period, as the case may be ?

The matter was considered by a Division Bench judgment of this Court in Sarwan Singh Versus State of Punjab and others, 2003 (3)

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SCT 514. In that case, there was a break of more than 10 years between the previous service and the present service. Under the two departments of the State administration, the Division Bench of this Court in Sarwan Singh's case (supra) held that the said interruption is not to be reckoned as qualifying service for the purpose of pension. However, the two spells are to be counted for the purpose of reckoning/computing for the purpose of pension. In this case, the first spell is from 21.9.1970 to 31.5.1974, which comes to three years and eight months and the second spell is from 7.2.1976 to 9.12.1983, which comes to seven years and ten months. Therefore, the total period comes to about eleven years and eight months, which is more than ten years, which is required to be qualified for the purpose of pension.

The Division Bench judgment of this Court in Sarwan Singh's case (supra) applies with full force to the facts of the present case. As such, the present writ petition is allowed. The respondents are directed to count the said two spells and combine it for the purpose of computing the service for the purpose of pensionary benefits, as observed above and accordingly grant the pension to the petitioner in accordance with the rules on his qualifying service as mentioned above. The petitioner shall also be entitled to the arrears of pension from the date of his retirement. The pension is payable by the Irrigation Department, Punjab.

(KULDIP SINGH)
JUDGE

16.8.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes