

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26716 of 2014 (O&M)
Date of decision : September 27, 2016

Nathu Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. B.K. Bagri, 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 worked as Driver in Haryana State Mineral Irrigation Tubewell Corporation (in short 'the HSMITC') from 09.12.1974 to 30.06.2002 when his services were retrenched. As per the Policy of the Government of Haryana, for re-adjustment of the retrenched employees from various board and corporation of the State of Haryana, the petitioner was also appointed as Driver on 18.09.2006 with respondent No.4 i.e. Superintendent, District Jail, Bhiwani, from where he retired on 31.01.2013.

The prayer of the petitioner is for counting his service rendered in HSMITC as qualifying service for the pension.

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

Petitioner has relied upon the Instructions of Government of Haryana dated 16.12.2010 (Annexure P-13). The relevant extract of the said Instructions is as under:

“Accordingly, all the employees initially appointed in Board/Corporations/Municipal Committees and declared surplus and subsequently appointed on transfer basis in other departments and the benefits of pay protection has been given are entitled to the benefit of incentives introduced under the schemes mentioned at (c) to (f) after completion of requisite length of service as the case may be after counting their past service rendered by them in Boards/Corporations/Municipals Committees.”

Learned counsel for the petitioner has also relied upon the judgment of Hon'ble the Apex Court delivered in case of **“State of Haryana and another vs Deepak Sood and others”**, passed in Civil Appeal No.4446 of 2008, decided on 15.07.2008 (Annexure P-14), wherein in case of adjustment of employees to Octroi Branch in Education Branch, the benefits of past service were given for fixing the pensionary benefits. Hon'ble the Apex Court observed as under:

“Therefore, in the service of judgments given by this Court the view has been taken that in case of a transfer/absorption from one department to another or from public sector to State though the benefit of the seniority may be denied to the increment but not for other benefits like pay fixation for the pensionary benefits. Therefore, when the benefit of past service rendered in the parent department was given for fixation of pay and pensionary benefits, there is no reason why the past service should not be counted for grant of ACP

Grade. Consequently, we are of the view that the view taken by the Division Bench of the High Court in the impugned judgment and order is correct and there is no ground to interfere in the appeal. Consequently, this appeal is dismissed but with no order as to costs.”

Learned counsel for the petitioner has also relied upon the Instructions of Government of Haryana dated 07.01.2002. He has also relied upon the judgment of this Court passed in CWP No.3792 of 2012, titled as **“Suresh Chand and others vs State of Haryana and others”**, decided on 14.01.2016. The matter is regarding HSMITC in a similar case, where an employee of HSMITC was retrenched and later on, employed in the other department of the Government of Haryana, wherein it was held that the employee is entitled for counting of his past service rendered in HSMITC as qualifying service for the purpose of pensionary benefits.

In view of the matter, the present petition is allowed. The respondents are directed to count the past service of the petitioner rendered in HSMITC i.e. from 09.12.1974 to 30.06.2002 as qualifying service for the purpose of pensionary benefits. The necessary benefits be, accordingly, released to the petitioner within three months from the date of receipt of copy of this order.

(KULDIP SINGH)
JUDGE

September 27, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes