

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 9 of 2012

Date of decision : February 02, 2016

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Om Parkash Chitra

.....Petitioner

Versus

The State of Haryana and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioner has filed the present writ petition seeking direction to the respondents to compute the entire length of service of the petitioner i.e from 20.9.1974 till retirement i.e 31.1.2008 for the purpose of computing the retiral dues and arrears along with interest.

The petitioner was appointed as Assistant Draftsman (Civil) in Improvement Trust, Sirsa on 20.9.1974 through Employment Exchange. Thereafter the petitioner was appointed through proper channel as Assistant Draftsman with Haryana State Minor Irrigation

Tubewell Corporation (HSMITC) and the petitioner served the department till 24.6.1977. Thereafter on 17.6.1977, the petitioner was appointed as ADM (Civil) with PWD, Public Health Branch, Chandigarh vide appointment letter (Annexure P-3). In the year 1990, the petitioner was promoted as Head Draftsman vide order dated 26.3.1990 (Annexure P-4). Vide order dated 23.8.1995 (Annexure P-5), the petitioner was promoted as Circle Head Draftsman. Vide order dated 6.8.2002 (Annexure P-7), he was promoted as Sub Divisional Officer. Subsequently, after serving the Public Health Department, the petitioner retired from service on 31.1.2008 on attaining the age of superannuation.

The grievance of the petitioner in the present case is that the petitioner is entitled for computation of entire length of service including the service from 20.9.1974 to 25.6.1977, wherein the petitioner served with Improvement Trust, Sirsa under Local Bodies Department and also under HSMITC for the purpose of computation of pension, gratuity and other retiral dues except seniority.

Counsel for the respondent is not disputing the settled proposition of law. I have heard counsel for the parties and have thoroughly gone through the records of the case. The issue involved in this petition is squarely covered by the catena of judgments of this Court in ***Chhaju Ram vs. State of Haryana and others 2011(1) SLR 645, Raj Kumar and others vs. State of Haryana and others decided on 14.1.2010, Shadi Lal Malik vs. State of Haryana, 2012 (1), Service Cases Today 569, Daryao Singh vs. State of***

Haryana 2009(2) SLR 568, Bikram Singh vs. State of Punjab 1996

(1) SCT 161. The consistent view which has been held in the aforesaid judgments is that *if an employee is appointed from one Government Department to another through proper channel than the entire service rendered in both the Departments shall be counted for the purpose of pensionary benefits and other retiral benefits.*

In '**Raj Kumar vs. State of Haryana and others**' bearing, '**CWP No. 19638 of 2008**' decided on **14.1.2010**, reference was made to a judgment of Hon'ble the Supreme Court in the case of **State of Haryana and another vs. Deepak Sood and others (Civil Appeal No.4446 of 2008)** decided on **15.7.2008**, it has been held as under:

"Therefore, in the series 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 incumbent but not for any other benefits like pay fixation and 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 this appeal. Consequently, this appeal is dismissed but with no order as to costs.”

In ***Raj Kumar's case (supra)***, the petitioners were claiming the benefits of service rendered by them in HSMITC before joining the Revenue Department for the purpose of pensionary/retiral benefits. They had received the payment of CPF contribution. While allowing the writ petition, a direction was given to the respondents that the Department will adjust the CPF contribution received by the petitioners from the pensionary/retiral benefits payable to the petitioners. A further direction was given to the respondents that the pensionary benefits of the petitioners be determined and paid within a period of four months in accordance with law from the date a copy of the order was made available to the competent authority.

The petitioner was appointed as Assistant Draftsman (Civil) in Improvement Trust, Sirsa on 20.9.1974 as per appointment letter (Annexure P-1) and thereafter he was relieved on 28.2.1977 in order to join HSMITC. Thereafter he was appointed as Assistant Draftsman with HSMITC through proper channel and served there up to 24.6.1977. Thereafter he joined the Public Health Department. The appointment with the Improvement Trust and the HSMITC was through proper channel and when he joined the Department of Public Health, there was no break in his service. As the appointment of the petitioner with the Improvement Trust and the HSMITC and the

present Department has been through proper channel, hence the entire length of service is to be counted for the purpose of pension.

Having regard to the aforesaid, this writ petition is being allowed with a direction to the respondents to count the entire service of the petitioner w.e.f 20.9.74 to 31.1.2008 for the purpose of computation of all retiral benefits. As per the submission of the learned counsel for the petitioner that as per settled law the pensionary/retiral benefits are to be released to the retiree within a period of three months from the date of retirement. The petitioner has retired on 31.1.2008 and the retiral benefits have not been released to him within three months i.e till 30.4.2008. He is entitled to interest w.e.f 1.5.2008. Therefore, the arrears of pension shall be paid along with 9% interest w.e.f 1.5.2008 within a period of three months in accordance with law from the date a copy of this order is made available to the competent authority.

Ordered accordingly.

February 02, 2016
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(**RITU BAHRI**)
JUDGE