

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.7327 of 2015

Date of decision: 04.03.2016

Randhir Singh Lambra

...Petitioner

versus

The State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Parveen Kumar Rohilla, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana,
for respondent No.1.

Mr. Yatinder Sharma, Advocate,
for respondent No.2.

RITU BAHRI, J.

The petitioner is seeking to quash the order dated 31.03.2015 (Annexure P-9) passed by the Chairman, Haryana Electricity Regulatory, Commission-respondent No.2, whereby his claim to count the past regular service from 12.07.1979 to June, 2002 rendered by him in Haryana State Minor Irrigation Tubewells Corporation Limited and further contract service from 25.07.2002 to 28.05.2003 rendered in Haryana Electricity Regulatory Commissioner for the purpose of pension etc., has been rejected.

Vide order dated 08.12.2014 passed by this Court in CWP No.781 of 2014, titled as **Randhir Singh Lambra Vs. The State of Haryana and another** (Annexure P-4), a direction was given to the respondents to reconsider the genuine claim of the petitioner in the light of the judgment passed by this Court in **Mahavir Yadav Vs. State of Haryana and others,**

CWP no.24370 of 2012 (decided on 21.02.2014) and pass an appropriate

order within a period of two months. In compliance with the aforesaid order, the claim of the petitioner has been considered and rejected vide order dated 31.03.2015 (Annexure P-9) passed by respondent No.2.

A perusal of the impugned order (Annexure P-9) shows that the petitioner was initially appointed in Haryana State Minor Irrigation and Tubewell Corporation Limited (HSMITC) and his services were placed with HERC on deputation basis and he joined in HERC on 31.12.1999 as Personal Assistant. Later on, the HSMITC Ltd. was closed by the State Government on 30.06.2002 and thereafter, the petitioner was relieved from HERC vide order dated 22.07.2002. However, on his request, he was appointed as Personal Assistant in HERC on contract basis w.e.f. 25.07.2002. Thereafter, one post of Personal Assistant was advertised by the Commission. The petitioner was appointed on the said post on temporary basis vide order/memo dated 28.05.2003. Thereafter, he was promoted to the post of Private Secretary and Senior Private Secretary w.e.f. 17.09.2004 and 19.01.2012 respectively. After rendering the service of 8 years, 11 months and 2 days, the petitioner was retired from the service of HERC on 30.04.2012 at the age of 58 years. However, he was not granted any pension because he had not rendered the qualifying service of 10 years, which is required as per Rule 6.16 (I) of CSR Vol-II as applicable to Haryana and HERC. At the time of his retrenchment/termination from HSMITC, following amount was paid to the petitioner:-

1. DCRG under the Industrial Disputes Act. : Rs.76,450/-

2. Leave Encashment : Rs.94,840/-

Total : Rs.1,71,292/-

The competent authority held that the petitioner did not exercise

an obligation of depositing the full amount of employer share of contribution provident fund along with interest during his service rendered in HERC and now the employer share of contribution provident fund cannot be accepted at such a belated stage. As far as the contractual service rendered by the petitioner in HERC from 25.07.2002 to 28.05.2003 is concerned, it was held that as per Rules 3.12, 3.17 – A (d) (f) (iv) and 6.16 (I) of CSR Vol. II, the petitioner cannot be given the benefit of contractual service as prayed by him. Further, the claim has been rejected in view of the policy dated 21.06.2006 of the Government, whereby adjustment of the retrenched employees has been provided subject to the condition that they would accept it as a fresh appointment and would not claim benefit of past service for the period prior to their retrenchment or for the period he/she remained out of service. Ultimately, it was held that the petitioner was appointed afresh in the Commission initially on contract basis after retrenchment from HSMITC and after a break of 25 days and thereafter, on regular basis after having applied against an advertisement issued by the Commission as Personal Assistant. Therefore, he cannot claim any benefit of past service.

Learned counsel for the petitioner has referred to the judgment passed in **Director, Treasuries and Accounts, Haryana and others Vs. Shubh Karan Sharma and others**, LPA No.1261 of 2011 (decided on 18.08.2011), whereby a Division Bench of this Court has upheld the judgment passed by the learned Single Judge holding that the petitioners, who have rendered services in Haryana State Minor Irrigation and Tubewell Corporation (HSMITC) before their absorption in the Government Department would be entitled to count their earlier services for all intents and purposes except seniority. However, it was clarified that grant of pensionary

benefits would be subject to the deposit of CPF contribution, gratuity etc. in accordance with the rules or in the alternative the amount equal to CPF contribution and other payable amount may be deducted by the appellants after working out the pensionary/retiral benefits. SLP against this judgment was dismissed by the Hon'ble Supreme Court on 02.05.2014.

The dispute in the present case is no longer *res integra* and the matter is squarely covered by the judgments passed by this Court in **Ved Parkash Bali and others Vs. State of Haryana an another**, CWP No.20057 of 2009 (decided on 01.12.2011) and **Suresh Chand and others Vs. State of Haryana and others**, CWP No.3792 of 2012 (decided on 14.01.2016).

In the present case, the petitioner has received his leave encashment for 300 days as per instructions (Annexure R-8).

In view of the aforesaid judgments, claim of the petitioner for counting the past service rendered in Haryana State Minor Irrigation and Tubewell Corporation Limited (HSMITC) is liable to be accepted and his prior services are required to be clubbed together with the services rendered by him after his absorption in HERC-respondent No.2.

Resultantly, the present petition is accepted and a direction is given to the Haryana Electricity Regulatory Commission (HERC) to count the past regular services of the petitioner w.e.f. 12.07.1979 to June, 2002 rendered with HSMITC and w.e.f. 25.07.2002 to 28.05.2003 in HERC for the purpose of pension etc. subject to the condition that the petitioner would deposit the CPF contribution with the respondents, in accordance with law.

04.03.2016
ajp

(RITU BAHRI)
JUDGE