

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9807-2014 (O&M)
Date of decision: 18.11.2016

Vidya Sagar

.....Petitioner

versus

The Director, Industries and Commerce Haryana and another

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Sachin Gupta Ladwa, Advocate for the petitioner
Mr. Naveen Sheoran, DAG Haryana

- 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?*

Kuldip Singh, J. (Oral)

Petitioner was appointed as Mechanical Supervisor in Haryana Industries and Commerce Department on 31.12.1966 and worked there till 31.10.1976 i.e. for 9 years 10 months and 1 day. The Scheme, namely, 'common facility workshop in the Industrial and Commerce Department' was wound up and the staff working therein, including the petitioner was transferred to Haryana Agro Industries Corporation, which is non-pensionable job. Earlier job of the petitioner in Haryana Industries and Commerce Department was pensionable. Petitioner retired from Haryana Agro Industries Corporation on 31.3.2000 as Supervisor. Later on, the petitioner made a claim for pension from the previous department i.e. Haryana Industries and Commerce Department.

It comes out that vide order endorsed on 4.5.2012 (Annexure P2), the pension was allowed by Haryana Industries and Commerce Department after considering that a period of more than three months and less than six months will be treated as half year for the grant of pension. Therefore, the period of 9 years 10 months and 1 day was treated as 10 years being more than 9 ½ years. It also comes out that vide letter dated 10.4.2012 (Annexure P1), the petitioner was directed to fill in the necessary pension papers. Since pension was not granted, the petitioner approached this Court by way of CWP No.279 of 2014, which was disposed of vide order 13.1.2014, directing the respondents to pass a speaking order on the representations of the petitioner dated 14.12.2012 (Annexure P3) and 14.5.2013 (Annexure P5). Accordingly, a speaking order dated 24.4.2014 (Annexure P8) was passed by the Director Industries and Commerce Haryana, stating that since the period of service is 9 years 10 months and 1 day, which is less than 10 years, therefore, qualifying service being less 10 years, the pension cannot be allowed. This was done after considering the Rule 6.1 of Punjab Civil Service Rules Volume II Chapter VI.

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

The question involved in this case is regarding interpretation of Rule on the point that whether the job of the petitioner in Haryana Industries and Commerce Department is pensionable or not? Undoubtedly, previously, Director had taken a view vide letter Annexure P2 that service of 9 years and 10 months be treated as 10 years in view of the instructions of the Finance Department. However, now, he has changed his view.

Rule 6.1 of Punjab Civil Service Rules Volume II Chapter -VI is

reproduced as under:-

6.1. The amount of pension that may be granted is determined by length of service as set forth by the succeeding section of this Chapter. [Fraction of a year equal to three months and above shall be treated as a completed one-half year and reckoned as qualifying service for describing the amount of pension]

A perusal of aforesaid Rule shows that the service is counted in six months. Therefore, service of 10 years comes to 20 half years. Rule clearly shows that a fraction of year equal to 3 months and above shall be treated as complete one half year, which means that if the service is more than 9 ½ year, it is to be treated as 10 years under the said Rule. Therefore, the view taken in the order Annexure P8 is apparently contrary to Rule 6.1 of Punjab Civil Service Rules Volume II Chapter -VI.

The matter was also considered by a Division Bench of this Court in Amrik Singh vs. State of Punjab and others, (CWP No.8012 of 2003) decided on 8.7.2004, wherein service of 9 years 9 months 17 days was ordered to be treated as complete 10 years of service.

In view of Rule 6.1 of Punjab Civil Service Rules Volume II Chapter -VI and the judgment of this Court in Amrik Singh's case (supra), it is ordered that service of the petitioner, which is 9 year 10 months and 1 day, shall be treated as complete 10 years and the petitioner is accordingly entitled to pension treating his qualifying service to be 10 years in Haryana Industries and Commerce Department.

Accordingly, the impugned order dated 24.4.2014 (Annexure P8) is hereby quashed. Respondents are directed to calculate the pension accordingly and release the same to the petitioner within two months from

the date of receipt of a certified copy of this order. Needless to say that the interest @ 9% per annum on the arrears shall also be granted to the petitioner.

The writ petition stands allowed accordingly.

18.11.2016

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

Yes