

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6882-2003 (O&M)
Date of Decision:-16.12.2017.

Regional Provident Fund Commissioner

.....Petitioner

Versus

Ram Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Rajesh Hooda, Advocate for the petitioner.

None for respondent No.1.

Mr. J.P.S. Sandhu, Advocate for respondent Nos.2 and 3.

P.B. BAJANTHRI, J. (Oral)

Despite giving sufficient opportunity, neither first respondent nor his representative is present. Hence, the matter heard.

The petitioner is a statutory authority constituted under the Regional Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the EPF Act'). First respondent was an employee of respondent Nos.2 and 3-Punjab State Electricity Board (for short 'PSEB'). First respondent has worked with PSEB during the period from November, 1986 to 10.07.1995. He has attained age of superannuation and retired from service on 10.07.1995. It is learnt that beyond the age of superannuation, respondent-workman's services were engaged by the PSEB up to 31.07.1997. In this background, whether first respondent is entitled to pension from the

petitioner or not is the issue involved in the present case. Respondent-workman filed application before the Labour Court. Labour Court passed the award in his favour while holding that respondent workman is entitled to short service pension as per rules from the official respondents vide award dated 17.10.2002 (Annexure P-2). Thus, the petitioner aggrieved by the award passed by the Labour Court dated 17.10.2002 presented this petition.

Learned counsel for the petitioner submitted that respondent-workman's application under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short 'the I.D. Act') before the Labour Court is not maintainable against the petitioner in view of definition of industrial dispute under Section 2 (k) of the I.D. Act. It was further contended that respondent-workman's contribution of Provident Fund is for the period from November, 1986 to 10.07.1995 which is less than required minimum 10 years contribution. It was also submitted that contribution made by the respondent-workman during the period from 10.07.1995 to 31.07.1997 cannot be taken into consideration for the purpose of extending pension in view of para 2 (ix) of paragraph 10 of Employees Pension Scheme, 1995. It was further submitted that this Court in CWP-11593-1997 (Annexure P-3) held that application under Section 33-C (2) of the I.D. Act against the Regional Provident Fund Commissioner is not maintainable if a workman is employed other than the Regional Provident Fund Commissioner. The respondent-workman has settled his Provident Fund and other dues on 16.09.1998 as is evident from the para 3 of the affidavit dated 09.10.2017. Thus, Labour Court has failed to appreciate contentions of the petitioner relating to maintainability of the application filed by the respondent-workman as well as statutory provision which prohibits for extending

pension if a workman has not contributed for a period of 10 years.

First respondent-workman is not present so also none represented him. Consequently, matter is to be decided with the available records. Having regard to the definition of industrial dispute under the I.D. Act, application of the respondent-workman is not maintainable against petitioner is concerned. The same is supported by a decision rendered by this Court in CWP-11593-1997 (Annexure P-3). That apart petitioner has not contributed to the Provident Fund for a period of 10 years. Thus, there is a provision under para 2 (ix) and paragraph 10 of Employees Pension Scheme, 1995. In view of the statutory provisions both under I.D. Act as well as Employees Pension scheme, the Labour Court has erred in extending benefit to the respondent-workman. Accordingly, Labour Court award dated 17.10.2002 (Annexure P-2) is set aside.

Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

December 16, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.