

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

CWP No. 23210 of 2014

Date of Decision: 18.04.2017

MOHAN LAL RAINA

... Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vishal Aggarwal, Advocate,
for the petitioner.

Mr. Anshul Gupta, AAG, Punjab.

Mr. R.L. Sharma, Advocate,
for respondent Nos. 2 and 3.

KULDIP SINGH, J. (Oral)

Brief facts of the case are that the petitioner has served as Junior Engineer (Civil) in the office of Executive Engineer, Bursar, Investigating Division, CWC, Patel Nagar, Talab Tille, Jammu w.e.f. 24.10.1976 to 30.03.1986. While working there, he had applied for the post of Junior Engineer (Civil) through proper channel in Punjab State Electricity Board (PSEB) now succeeded by Punjab State Power Corporation Limited (PSPCL). Subsequently, he was selected for the said post and joined on 31.03.1986 and ultimately superannuated in the year 2013. The claim of the petitioner is that his previous service w.e.f. 24.10.1976 to 30.03.1986 should be counted for the purpose of pensionary benefits in terms of circular dated 20.05.1982 (*Annexure P-1*) issued by the Government of Punjab, Department of Finance, which was duly adopted by the PSEB vide regulation circular No. 54/85 dated 25.11.1985 (*Annexure R-1*). It is further claimed that the circular (*Annexure P-1*) with regard to the grant of benefit of past service of the retrenched or temporary

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employees is discriminatory. Since, the petitioner was a permanent employee, therefore he should also be extended the same benefit.

At the time of arguments, learned counsel for the petitioner has not pressed for the relief of advance increments on completion of 20 years of service.

Respondent No. 1 in its reply has admitted that the petitioner has worked as Junior Engineer (Civil) in the office of Executive Engineer, Bursar, Investigation Division, Central Water Commission, Patel Nagar, Talab Tille, Jammu w.e.f. 24.10.1976 to 30.03.1986. It is further stated in the reply that the other paragraphs relates to respondents No. 2 and 3.

Respondent No. 2 and 3 in the written statement have admitted that circular dated 20.05.1982 (*Annexure P-1*) was adopted vide notification dated 25.11.1985 (*Annexure R-1*). However, it is stated that the said adoption was withdrawn vide another circular dated 03.11.2004 (*Annexure R-2*). Since, the petitioner has retired thereafter, he is not entitled for benefit of the circular dated 25.11.1985 (*Annexure R-1*).

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

Learned counsel for the petitioner has argued that he joined the service of respondent-department w.e.f. 31.03.1986 and at that time circular dated 20.05.1982 (*Annexure P-1*) stood already adopted by respondents No. 2 and 3. It is further stated that circular dated 20.05.1982 (*Annexure P-1*) so far as the grant of benefit of past service to the temporary or retrenched employees is discriminatory and the same benefit are to be extended to the permanent employees also.

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I am of the view that this controversy needs not be gone into in the present case. Learned counsel for the petitioner has also relied upon the concluding clause of circular dated 20.05.1982 (*Annexure P-1*) that the said circular shall come into force w.e.f. 31.03.1982 and the cases of such government employees retiring on this date and thereafter, will be regulated accordingly.

Learned counsel for the petitioner, has contended that he had made the representation dated 26.10.1994 (*Annexure P-2*) and his case was recommended vide letter dated 31.10.1994 (*Annexure P-3*). But thereafter, nothing was done. The respondent-department was required to make an entry in the Service Book of the petitioner. He further contended that once the benefit has accrued to the petitioner, the same could not be denied on account of the fact that the circular in question has been withdrawn.

I am of the view that even as per the circular dated 20.05.1982 (*Annexure P-1*), the case of the government employees retiring after 31.03.1982 is to be regulated by circular dated 20.05.1982 (*Annexure P-1*). This is the circular of the Government and PSEB which is a statutory authority. Though, the said circular was not binding but the PSEB in its wisdom has adopted the said Regulation vide Circular No. 54/85 dated 25.11.1985 (*Annexure R-1*) w.e.f. 31.03.1982. Later on, on 03.11.2004 vide another circular No. 19/2004 (*Annexure R-2*), the adoption of the said circular was withdrawn.

Now, the question would arise as to whether the petitioner is entitled to the benefit of circular dated 25.11.1985 (*Annexure R-1*), assuming that it is applicable to the permanent employees also and subsequent withdrawal of the circular has no effects on the case of the petitioner ?

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I am of the view that for the purpose of pension, service is to be counted at the time of superannuation. Therefore, the Rules as applicable at the time of superannuation are to be seen as to whether the previous service of the petitioner is to be counted for grant of pensionary benefits. At the time of retirement of the petitioner in the year 2013, the circular dated 20.05.1982 (*Annexure P-1*) which has been impugned in the present writ petition stood already withdrawn. Therefore, even if it is held that the petitioner is qualified under circular dated 20.05.1982 (*Annexure P-1*) in view of the withdrawal of the same by another circular dated 03.11.2004 (*Annexure R-2*), the previous service of the petitioner rendered in the office of Executive Engineer, Bursar, Investigating Division, CWC, Patel Nagar, Talab Tille, Jammu w.e.f. 24.10.1976 to 30.03.1986 is not to be computed for the purpose of grant of pensionary benefits.

In view of the above, there is no infirmity and illegality in the impugned order. Consequently, the present petition stands dismissed.

April 18, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned :	✓ Yes / No
Whether Reportable :	Yes / No ✓