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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 24819 of 2014 (O/M)
Date of decision : 23.1.2017

Dhan Prasad Sapkota ..... Petitioner (s)

Versus

Punjab State Power Corporation Limited and others ..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Manpreet Singh, Advocate, for the petitioner.

Mrs. Geeta Sharma, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner joined the services of the respondent-State Power Corporation as a daily wager on 9.10.1982. He was made workcharge employee on 14.8.1986. His services were regularized on 29.6.1994. Thereafter, it comes out that vide order dated 27.5.2011 (Annexure-P-1), the workcharge services of the petitioner from 14.8.1986 to 29.6.1994 i.e. 7 years, 9 months and 22 days as workcharge employee were ordered to be treated for grant of pensionary benefits and sanction in this regard was granted by the Secretary of the respondent-State Power Corporation. It comes out that subsequently, the petitioner sought voluntary retirement, vide letters dated 28.2.2012 and Nil (Annexures-P-3 and P-5) and the same was allowed, vide order dated 12.6.2012 (Annexure-P-7). The petitioner retired from service with effect from 30.6.2012. It further comes out that respondent-department sent his case for pension, vide letter

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(Annexure-P-8), stating that after considering his workcharge and regular service, his total service comes to 21 years, 9 months and 1 day. However, the request was rejected by the of office of Chief Engineer, Administration Section, on the ground that to avail premature voluntary retirement benefits, an employee has to render service of 20 years or attain the age of 50 years, whereas the regular service of the petitioner is only 13 years, 11 months and 9 days, which is less than 20 years or 50 years of age. Therefore, the pension case of the petitioner was declined.

In the reply, respondents have not denied the factual position. It has be maintained that the regular service of the petitioner was required to be 20 years or he must have attained 50 years of age, only then he could seek premature voluntary retirement. Neither the petitioner has completed 20 years of regular service nor he has attained the age of 50 years as on 30.6.2012.

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

Admittedly, the petitioner was previously working as a daily wager and then workcharge employee. Vide order dated 27.5.2011 (Annexure-P-1), the sanction was granted to treat the workcharge service from 14.8.1986 to 29.6.1994 as qualifying service for pension. Respondents cannot blow hot and cold at the same time while considering the request of the petitioner for premature voluntary retirement. Respondents considered the relevant grounds and apparently after considering the workcharge service, he was allowed to retire with effect from 30.6.2012 (Annexure-P-7), assuming that the petitioner fulfills the qualification for seeking premature voluntary retirement i.e. 20 years of

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regular service or 50 years of age. This was apparently done as the workcharge service of the petitioner was ordered to be treated as qualifying service, vide order dated 27.5.2011 (Annexure-P-1). It is establish law that the workcharge service followed by regularization is to be treated as qualifying service for the grant of pension. The petitioner has already been granted voluntary retirement. Therefore, the said service of the petitioner was to be computed for counting the qualifying service of the petitioner. In this way, vide order dated 27.5.2011 (Annexure-P-1), the service of the petitioner was rightly computed as 21 years, 9 months and 1 day. Now, the respondent-State Power Corporation is debarred from claiming that since the regular service was less than 20 years, therefore, the pension and other benefits cannot be granted. Consequently, the present writ petition is allowed. The impugned order dated 22.5.2013 (Annexure-P-9) is hereby quashed. Respondents are ordered to release all the benefits including pension, leave encashment, gratuity, provident fund and other benefits to the petitioner treating his qualifying service as 21 years, 9 months and 1 day alongwith interest at the rate of 9% per annum, starting three months from the date of retirement of the petitioner i.e. 30.6.2012 till the date of the payment. The needful be done within three months from the date of receipt of certified copy of this order.

(KULDIP SINGH)
JUDGE

23.1.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes