

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

CWP No. 26753 of 2015

Date of Decision: 23.02.2017

V.M. HANDA

... Petitioner

VS.

***PRINCIPAL SECRETARY TO GOVERNMENT OF HARYANA,
PUBLIC ENGINEERING DEPARTMENT AND ANOTHER***

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Petitioner in person.

Mr. Naveen Sheoran, DAG, Haryana

KULDIP SINGH, J (ORAL)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of certiorari for quashing of the impugned order dated 26.11.2007 (Annexure P-1). The prayer is also for issuance for writ of mandamus for directing the respondents to count past service rendered by the petitioner in the Punjab Irrigation Department from 22.09.1973 to 25.03.1975 towards pensionary benefits subsequent to joining the petitioner in the Public Health Engineering Department.

Brief facts of this case are that the petitioner had joined the Punjab Irrigation Department, Chandigarh as a Graduate Engineer on 22.09.1973 and according to the petitioner after applying through proper channel, he was selected and joined office of the Public Health Engineering Department, Haryana as Assistant Engineer on 26.03.1975, after resigning from the previous department on 25.03.1975.

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It comes out that the petitioner made a request to the Public Health Engineering Department, Haryana to count his previous service but the same was declined vide impugned order dated 26.11.2007 (*Annexure P-1*) stating that temporary service under Punjab Government with many breaks is not countable for pensionary benefits. The petitioner seeks quashing of the said order and also seeks the writ in the nature of mandamus for counting of said service towards pension and retiral benefits.

According to the petitioner, he made a representation dated 22.08.2008 (*Annexure P-7*) and made enquiry from the office of the Chief Engineer on 19.10.2010 about the progress of his case but no action was taken on the same. On 01.07.2010, the petitioner was involved in the marital litigation of his son. Thereafter, his wife fell seriously ill remained hospitalized in Fortis Hospital, Mohali from November 2012 to December 2014. Thereafter, on 15.12.2015, he filed the present writ petition.

After hearing both the parties and going through the file, it comes out that impugned order was passed on 26.11.2007 (*Annexure P-1*), refusing to count previous service of the petitioner. I am of the view that once the limitation starts running, it will not stop, merely making of representation or enquiry. The facts that he was involved in marital litigation of his son and his wife remained hospitalized are no ground to hold that for all those years the petitioner remained busy and could not spare time for filing of the writ petition. The present petition was filed after more than eight years of passing of the impugned order dated 26.11.2007 (*Annexure P-1*). Therefore, the present petition is liable to be dismissed.

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The petitioner claims that he is suffering from recurring loss and delay and latches should not stand in the way of entertaining his claim.

As regards, the said contention of the petitioner, the matter of continuous or recurring loss was considered by the Apex Court in **Union of India Vs. Tarsem Singh** wherein it was held that where a party is required to challenge a particular order, that has to be challenged within the limitation period and recurring loss is only when there is some error in fixation of pay and pension. Here, in the present case, re-fixation of pay and pension was dependent upon the fact whether the previous service of the petitioner is to be counted or not. For that purpose, the impugned order had to be challenged within the limitation. Since, the said order was not challenged within limitation, therefore, it is not a case of recurring loss or continuous loss.

In view of the above, I find no ground to interfere in the impugned order dated 26.11.2007 (Annexure P-1). Consequently, the present petition stands dismissed.

February 23, 2017

Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned :

✓
Yes / No

Whether Reportable :

✓
Yes / No