

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

CWP No. 717 of 2013 (O&M)
Date of decision: 18.4.2017

Rajinder Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. SS Kamboj, Advocate,
for the petitioner.

Mr. L.S. Virk, Additional Advocate General, Punjab,
for respondent No.1.

Mr. R.S. Cheema, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed seeking a direction to be issued to the respondents to re-fix the salary of the petitioner in the old pay scale while also granting promotions, annual increment, and arrears of salary along with 18% interest per annum.

2. In brief, the facts are that the petitioner, while working in Municipal Committee, Ahmedgarh, as peon came to be regularized on 9.9.1981. His services were terminated on 4.7.1983 after giving him salary in lieu of notice. The termination order was challenged before the Labour Court which dismissed the claim of the petitioner by award dated 27.2.1990. The impugned award was challenged in CWP No. 9885 of 1990 before this

Court and the award passed by the Labour Court was set aside and the

petitioner was directed to be reinstated in service with continuity in service. The LPA against the orders passed by this Court was also dismissed on 3.7.2009 and eventually the petitioner was asked to rejoin services by letter dated 30.11.2009. Instead of granting him salary and benefits of continuity in service, the petitioner was paid according to the new scale. Aggrieved the petitioner approached the Municipal Committee, Ahmedgarh but to no avail, hence this writ petition .

3. Mr. S.S. Kamboj, learned counsel appearing on behalf of the petitioner, contends that once the petitioner had been reinstated in service with continuity of service, it would necessarily mean that he would be deemed to be in service without any break therein and as a necessary consequence would also be entitled to the same pay scale as he was drawing as on the date his services had been terminated.

4. Per contra, Mr. R.S Cheema, learned counsel appearing on behalf of the Municipal Committee, on the basis of the written statement filed, argues that the benefit of earlier service rendered by the petitioner has been given to him. The petitioner has been given the benefit of 4 ACPs on 12.11.2011 by taking into the continuity of his services and the previous service has been entered in his service book.

5. I have heard the learned counsel for the parties and have also perused the pleadings of the case.

6. The petitioner herein, who was a regular employee of the Municipal Committee, Ahmedgarh, came to be reinstated in service with continuity in service by the order dated 11.8.2008 passed by this Court. He was taken back in service by letter dated 30.11.2009, however, was paid a

new pay scale. As per the written statement filed, a categorical stand has been taken that the benefit of earlier service rendered by the petitioner has been given to him as well as benefit of 4 ACPs on 12.11.2011 by taking into account the continuity of his services and the previous service has been entered in his service book. This fact is controverted by the petitioner in the replication filed wherein it is stated that no such benefits have been given to him.

7. Be that as it may, once a dismissed employee has been ordered to be reinstated with continuity in service, the effect of such an order would be that the employee would be considered to have continued in service as if no orders of termination had ever been passed. The relief of reinstatement in service with continuity of service would clearly indicate that the petitioner would be deemed to be in service, without a break, and for all intents and purposes could not be deprived of any of the benefits which would have accrued to him if he had continued to be in service like promotion, increments etc. In the instant case, the petitioner on reinstatement in service has been denied the said benefit based on a resolution taken that in case he is taken back in service, his past salary would not be paid. Resolution No .73 dated 29.07.2009 of the Municipal Committee decided to engage the petitioner afresh as peon. This resolution is certainly not in consonance with the directions issued by this Court which was affirmed by the Division Bench in the Letters Patent Appeal, where a clear direction had been given to take the petitioner back in service with continuity in service.

8. Therefore, in view of the above, the writ petition is allowed.

Resolution no 73 dated 29.07.2009 of the Municipal Committee by which it

was decided to engage the petitioner afresh as peon is held to be in contravention to the directions of this Court. The petitioner would be deemed to be in service without any break, entitled to have his pay re-fixed in the salary he was drawing as on the date the termination order was passed and subsequently would also be entitled to all other benefits which would accrue to him, as if there was no break in service.

9. The respondents are hereby directed to do the needful, re-fix the salary of the petitioner as on the date the termination order was passed, and release all other increments, promotions ACP etc, etc. within a period of two months from the receipt of certified copy of this order.

10. The writ petition is accordingly allowed with costs, which are assessed at Rs. 10,000/-.

18.4.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No