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

**RSA-5486-2014 (O&M)**

**Date of Decision : 17.11.2017**

The State of Punjab and others ..... Appellants

Versus

Dev Ram ..... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Mr. H.S. Sitta, A.A.G., Punjab  
for the appellants.

Mr. H.S. Dhandi, Advocate  
for the respondent.

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**AJAY TEWARI, J. (ORAL)**

This appeal has been filed against the concurrent judgments of the courts below decreeing the suit of the respondent.

Brief facts of the case are that the respondent served as Beldar w.e.f. 17.02.1966 to 31.03.1969 in the SYL Project (Beas Satluj Link Project) under the State of Punjab. Then he served as an Assistant Fitter w.e.f. 01.04.1969 to 30.06.1971. Thereafter he served as Diesel Mechanic w.e.f. 01.07.1971 to 31.05.1980. Subsequently he worked as Operator w.e.f. 23.11.1983 to 31.01.2000 in the Public Health Division, Moga. After

17.02.1966 to 31.05.1980 he had been employed on work-charge basis with the SYL Project which was a Government of India Enterprise and that period should be counted for all superannuation benefits. The lower appellate court while relying upon the Full Bench judgment of this Court in the matter of ***Kesar Chand vs. State of Punjab, AIR 1988 SC 265*** held that work-charge service which was followed by regular service was eligible to be counted for the purpose of pensionary benefits.

Learned Assistant Advocate General has argued that the distinction between the case of Kesar Chand (supra) and this case is that there is a gap of about 3½ years between the two services, one under the Central Government and one under the State of Punjab whereas as per the CSR Rules the gap upto 1 year is condonable.

Counsel for the respondent points out that every gap in service cannot be treated the same. As per him, if an employee resigns voluntarily and then joins service after a gap of more than one year the said bar is applicable but in the present case the respondent was relieved from duty in the SYL project because of reduction of strength. He has relied upon Rule 3.17-A of CSR Volume II which stipulates that in case break in service is due to abolition of post or loss of appointment owing to reduction in establishment, it will not entail forfeiture of past service. To support his arguments further he has relied upon the judgment of the Supreme Court in the matter of ***Punjab State Electricity Board and Another vs. Narata Singh and Another, 2010 AIR (SC) 1467*** wherein as regards the gap it has been held as follows:-

*“3. This Court has heard the learned counsel for the parties at*

*length and in great detail. This Court has also considered the documents forming part of the appeal. The argument that the respondent No.1 had served the Board for 7 years, 11 months and 25 days and was, therefore, not qualified for grant of pension as he had not put in minimum qualifying service of 10 years, is devoid of merits. It is true that the Board is a statutory body constituted under Section 5 of the Electricity (Supply) Act, 1948 and entitled to make regulations in exercise of power conferred by Section 79 of the said Act. It is also true that the regulation relating to pension requires that an employee of the Board must serve for a minimum period of 10 years so as to claim pensionary benefits and that the total service of the respondent No.1 with the Board is of 7 years, 11 months and 25 days. However, the claim made by the respondent No.1 that previous service rendered by him in work charged capacity with the State Government should be taken into consideration for the purpose of determining qualifying service for grant of pension is rightly upheld by High Court. It is relevant to notice that there were many cases where employees who had rendered temporary service under the State Government were retrenched but later on had secured employment under the Central Government and claimed pensionary benefits from the Central Government wherefrom eventually they had retired. There were also cases where employees who had rendered temporary service under the Central Government had secured employment under the State Government and were claiming pensionary benefits from the State Government wherefrom eventually they had retired. Therefore, the question of allocation of pensionary liability in respect of temporary service rendered under the Government of India and State Governments was considered by the Central Government. The Central Government consulted the State Governments and it was decided that as proportionate pensionary liability in*

*respect of temporary service rendered under the Central Government or the State Governments to the extent of such service could have qualified for grant of pension under the Rules of the respective Government, will be shared by the governments concerned on a service share basis, so that the Government servants are allowed the benefit of counting their qualifying service both under the Central Government and the State Governments for grant of pension by the Government from where they eventually retire.....*

*11. It was stressed that the service of the respondent No.1 with the Government of Punjab came to an end on April 15, 1978 when he was retrenched whereas after a lapse of more than four years, he joined the services of the Board on August 6, 1982 and, therefore, the gap being not condonable under Rule 4.23 of the Punjab Civil Services Rules, the claim of the respondent No.1 should have been rejected, has no substance. The policy decision of the Board indicates that the benefit of policy decision of the Government of Punjab was to be available to an employee of the Board with effect from March 31, 1982. A conjoint and meaningful reading of the memo dated November 25, 1985 issued by the Board and the policy decision of the Government of Punjab as reflected in letter dated May 20, 1982 of the Department of Finance makes it more than clear that the benefit would be admissible to one who having been retrenched from the service of the State Government, secured on his own, employment under the Board either with or without interruption between the date of retrenchment and date of new appointment. There is no manner of doubt that the respondent No.1 was retrenched from the service of the State Government. This fact is not only admitted in the list of events supplied by the learned counsel for the appellant but is also mentioned in the impugned*

*judgment. The record shows that on his own, the respondent No.1 secured employment under the Board with interruption between the date of retrenchment and date of new appointment. Therefore, it is wrong to argue that the respondent No.1 having joined service of the Board after a lapse of more than four years from the date on which he was retrenched by the State Government would not be entitled to the benefit of the memo dated November 25, 1985.”*

This judgment has been consistently followed by this Court.

No other point has been raised by the learned Assistant Advocate General.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending Civil Misc.

Application, if any, also stands disposed of.

**November 17, 2017**

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**( AJAY TEWARI )  
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No