IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

258 **Civil Revision No.7049 of 2015(O & M)**
Date of Decision:17.05.2018

Punjab Water Resources Management and Development Corporation Limited

....petitioner

Versus

Jagir Singh and others

.....respondents

CORAM: HON'BLE MR.JUSTICE KULDIP SINGH

Present: Mr.Amit Singh Sethi, Advocate for the appellant

Ms.Divya, Advocate for Mr.Navjot Singh, Advocate for respondent No.1

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KULDIP SINGH, J. (ORAL):

Impugned in the present revision petition is the order dated 06.02.2015 (Annexure P11), passed by the Court of Additional Civil Judge (Sr.Divn.), Fatehgarh Sahib, vide which while deciding the Execution Application dated 04.01.2014 (Annexure P10) for directing the JDs to pay ₹ 1,35,000/- on account of pension arrears of Jagir Singh for a period of 123 months i.e. w.e.f.10.12.1983 to 28.02.1994, the account of the petitioner namely Punjab Water Resources Management and Development Corporation, Chandigarh (for short, "Corporation"), bearing No.10731414268 of State Bank of India, College Road, Malerkotla, District Sangrur, was frozen .

The background of the case is that plaintiff Jagir Singh had filed a suit for declaration claiming among others, the entire gratuity and for considering the plaintiff as regular employee from 22.09.1958 to 28.02.1994 without break and for enhancement of pension after giving all the benefits. Plaintiff served Punjab Government till 11.12.1983. His services were retrenched from Punjab Government and he was given appointment in the Corporation as Tubewell Operator w.e.f.22.09.1958 from where he retired on 28.02.1994 on attaining the age of superannuation. Learned Additional Civil Judge(Sr.Divn.),Fatehgarh Sahib, vide judgment and decree dated 06.10.2006, granted the declaration that the plaintiff is entitled to enhanced pension and gratuity by treating him as regular employee from 22.09.1958 to 28.02.1994. Cross appeals were filed against the judgment and decree. The appeal against the said judgment filed by Punjab State Tubewell Corporation was dismissed by learned District Judge, Fatehgarh Sahib on 11.09.2008, whereas in appeal filed by respondents, the judgement and decree of trial Court was modified. The dispute was ultimately settled by this Court in Regular Second appeal No.4528 of 2009, decided on May 7, 2010, wherein it was held by a Single Bench of this Court that the plaintiff will not be entitled to pension by counting his service rendered in the Corporation and he would be entitled to pension for the service rendered by him in the Punjab Government. Meaning thereby, the plaintiff was held entitled to pension only for a period from 22.09.1958 to 11.12.1983 when he served with the Punjab Government. Now, the question before the executing Court arose as to whether plaintiff-respondent is entitled to pension w.e.f.11.12.1983 treating it as a deemed date of retirement or from 28.02.1994, when he retired from the Corporation? The Executing Court vide order dated 19.10.2013 interpreted the judgement of this Court by observing that benefit of pension under the Punjab Government is to be granted from the date of retrenchment/shifting to the corporation i.e.10.12.1983. I am of the view that this was never observed by the Court that the pension was due from 10.12.1983. In the order, the plaintiff was held entitled to pension for the period he served the Punjab Government. The plaintiff- decree holder never retired from the service under the Punjab Government but he was given appointment under the Tubewell Corporation, which is non pensionable job. In such cases, as per the Punjab Civil Services Rules Chapter IV Rule 5.3, *"When a Government employee is transferred from pensionable Government service to a non-pensionable establishment, he cannot be granted any pension or gratuity admissible to him for the qualifying portion of his service until he actually retires from the non-pensionable establishment to which he is transferred."* Meaning thereby that the plaintiff is to be granted pension from the date only when he retires from his non pensionable service of Punjab Government which is 28.02.1994. Meaning thereby that he will not be entitled to pension for the period he served the Corporation i.e. w.e.f.12.12.1983 to 28.02.1994. Therefore, the impugned orders passed by the executing Court are accordingly set aside. The order of freezing the account of the Corporation is also set aside. The Executing Court is directed to exclude the said period for the purpose of calculating pension and re-calculating the arrears of pension along with the interest and other arrears and record the finding as to whether anything is due from the J.D.(present petitioner) and if anything is found due, the counsel for the petitioner undertakes that the petitioner will pay the same before the Executing Court.

That being so, the petition is disposed of. The Executing Court is directed to re-calculate the arrears in the light of the order of this Court and the arrears, if any, shall be paid by the Corporation, immediately.

Since the main petition is disposed of, therefore,the pending application, if any, also stands disposed of.

May 17, 2018 **(KULDIP SINGH)**
neenu **JUDGE**

Whether speaking/reasoned Yes.
Whether reportable- No