

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19323 of 2009

Date of Decision: 31.10.2018

Rajinder Kumar Sharma

... Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam
Ltd. and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. D.R. Bansal, Advocate,
for the petitioner.

Mr. Namit Kumar, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner spent 28 years as work charged employee with the erstwhile Haryana State Electricity Board and superannuated from service of the Dakshin Haryana Bijli Vitran Nigam Ltd. He was not made regular throughout his service tenure and retired without pension and pensionary benefits.

2. Mr. Bansal for the petitioner relies on a policy of the HSEB dated February 08, 1988 on the subject of adjustment of work charged staff. The Board considered the pros and cons of various dimensions of the staffing problem of different organizations and other related aspects of the case and decided as per Clause (iv) and (vi) of the policy to confer certain benefits on which the case of the petitioner rests. The Clauses favourable to the petitioner which will bring him succour read as under:-

*“(iv) The residual work charged staff who are either
considered unsuitable or do not find place for*

absorption against any regular post may be appointed as T/Mate on regular basis by getting the equivalent number of posts with the approval of the Board.

(v) The work charged staff who are found suitable for various posts may be offered regular appointments with deemed date of 1.1.88 thereby meaning that there would be no work charged establishment w.e.f. 1.1.88 in the Board.”

3. Despite this policy, the petitioner was ignored and the benefit of regular appointment was not given to him. Apart from the policy, the petitioner pleads discrimination by referring to the case of one Ram Tilak, Lower Division Clerk who was also work charged employee like the petitioner and whose services were regularized in terms of the policy. This position is not refuted in the written statement. The petitioner has demonstrated a case for relief, on merits under the policy and on parity of treatment being similarly placed. Unfortunately, his claim was rejected by the order dated October 26, 2009 for no rhyme or reason.

4. As a result, this petition is allowed and the impugned order dated October 26, 2009 (Annex P-24) is quashed. A direction is issued to the respondent-Nigam to regularize the services of the petitioner from the due date or deemed date in the policy i.e. January 01, 1988 as per policy and to treat his entire period as qualifying for service entitlements including service pension.

5. The petitioner will be treated as a regular employee for intents and purposes. His pension, pensionary benefits, arrears of difference of salary, allowances and other consequential benefits shall be calculated and paid to him within three months from the date of receipt of certified copy of this order failing which the determined amounts will carry interest at the

rate of 12% per annum till payment is made.

31.10.2018

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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned Yes

Whether reportable No