

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

202

**RSA-2767-2005 (O&M)
Date of decision:01.03.2018**

Hardev Singh

...Appellant

Versus

The Secretary, Industrial Department Punjab, Chandigarh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. G.S. Bhatia, Advocate for the appellant.

Mr. Rana Harjasdeep Singh, AAG, Punjab.

Mr. Vipin Mahajan, Advocate for respondent No.4.

P.B. BAJANTHRI, J. (ORAL)

On 19.02.2018 following order was passed:-

“Pursuant to the order dated 30.01.2018 Dr.D.P.S. Kharbanda, IAS, Director, Industrial Department, Punjab is present. Learned State counsel submitted that his personal appearance may be dispensed as he has got complete instructions for arguing the case on the next date of hearing. Therefore, personal appearance of the Director is dispensed until further orders.

In the instant appeal, appellant's grievance is whether is he entitled for pensionary benefits or not?

Appellant has joined service in the Industrial Department on 07.10.1974. He has completed 20 years of service on 06.10.1994. Appellant was permitted to take deputation in Beant Engineering College for a period of 2 years on 28.05.1996. While he was on deputation, Beant Engineering College invited application for the post of Superintendent Grade II for which appellant was candidate and he had applied through proper channel with the permission of the parent department of Director, Industrial Department, Punjab. Thereafter, he was appointed on 22.09.1997. While giving permission to the appellant respondent have held that he had a lien in the Industry Department, Punjab for a period of 2 years from 25.06.1996 to 24.06.1998. In the intervening period appellant had submitted application for voluntary retirement on 30.06.1998 and it was accepted on 17.03.1999 w.e.f. 30.06.1998. Learned counsel for the respondent at this juncture seeks time to get further instruction in the matter whether appellant was absorbed or appointed in the Beant Engineering College or not so as to ascertain entitlement of pensionary benefits with reference to Rule 5.3 (1) and (2) of Chapter V relating to Different Kinds of Pension and Conditions for their grant of Punjab Civil Service Rules.

List this matter on 01.03.2018.”

Respondents are not in a position to apprise this court that appellant's appointment with Beant Engineering College is absorption whereby he has lost service benefit in the Government Department. On the other hand from the order of appointment it is crystal clear that he was

appointed with Beant Engineering College to the post of Superintendent Grade II in accordance with the Rules/Regulations as a direct recruitee for which respondent had permitted to make necessary application for the post. Therefore, question for consideration in the present appeal is whether appellant is entitled to retiral benefits in view of sub-Rule 3 of Rule 3 of the Punjab Civil Services (Premature Retirement) Amendments Amending Rules, 1987 (for short 'Rules, 1987'). Having regard to the fact that as and when appellant was appointed to the post of Superintendent Grade II Director, Industrial Department Punjab passed an order that permission was granted to the appellant to the extent that he had lien in the Industrial Department for a period of 2 years from 25.06.1996 to 24.06.1998. During the lien period appellant had submitted voluntary retirement application and it was accepted on 17.03.1999 w.e.f. 30.06.1998. In view of these facts and circumstances, trial court as well as appellate court has failed to appreciate statutory provision like Rules, 1987 read with factual aspects that appellant was appointed directly to the post of Superintendent Grade II pursuant to the advertisement issued by the Beant Engineering College so also permission granted by the respondent-department for applying and for joining the service so also lien with the department for a period of 2 years and acceptance of voluntary retirement w.e.f. 30.06.1998. Accordingly, decisions of the trial and appellate courts are set aside. Appeal stands allowed. Concerned respondent is hereby directed to consider the appellants grievance relating to extending the benefit of retiral benefits having regard to service rendered from 07.12.1974 to 25.06.1996 the date on which he

was relieved permitting him to report for the post of Superintendent Grade II in the Beant Engineering College. The above exercise shall be completed within a period of 4 months from today.

01.03.2018
pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No