

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

**CWP No. 8200 of 2018
DECIDED ON: APRIL 04, 2018**

ISHWAR DASS

.....PETITIONER

VERSUS

**CHIEF ENGINEER, WATER REGULATION, BHAKRA BEAS
MANAGEMENT & ORS**

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Madan Mohan, Advocate
 for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought for the issuance of writ in the nature of certiorari for quashing order No. 6108/DIR/12-E/Seasonal/Court case dated 30.10.2017 issued by respondent No.2 (P-7), Memo No. 592-93/HYD/8-C, dated 16.03.2017 issued by respondent No.3 (P-3) and Memo No. 1454-56/HYD/8-C, dated 08.06.2017 issued by respondent No.3 (P-5), whereby, his claim for the grant of pension has been rejected as well as for issuance of writ in the nature of mandamus directing the respondents to sanction and release the his

pension from the due date that too, along-with interest @ 18% per annum.

2. The fact recapitulated from the petition in brief are that Bhakra Beas Management Board (for short 'Board') is a statutory Board constituted by the Central Government under Section 79 of the Punjab Re-organization Act, 1966 for carrying out the function envisaged in Section 78 of the Punjab Re-organization Act, 1966 (for short 'Act') and to achieve the purpose, the Board has established a network of discharge observation sites on river Sutlej and its tributaries in the catchment area of Bhakra Dam and to gather information of inflows into Bhakra Reservoir, it employs the officials. The petitioner used to employ as seasonal work employee during each rainy season specifically against the sanctioned season posts for round the clock vigil. He worked with the respondent-Board continuously for all the seasons from 1979 as Gauge Reader and Regulation Beldar for a total 3076 days. Thereafter, he was engaged on regular basis as Beldar and worked from 19.06.2012 to 31.10.2015 and he has been drawing the salary @ ₹13,896/- as on 31.10.2013. However, the afore-said salary was paid to him without any annual increases for the period 01.11.2013 to 31.10.2015, for which period he worked under proper sanction. Petitioner served the notice claiming for considering him as a regular employee but that was rejected by the respondents vide order dated 30.10.2017. Apart from it, he is also pursuing petition before the authorities under the Payment and Gratuity Act. 1972 (for short 'Act 1972'), which is still pending disposal.

3. This Court has considered the afore-said submissions made by learned counsel for the petitioner and has perused the impugned orders (P-7, P-3 and P-5) but does not find any legal or factual weight therein.

4. The establishment of Board cannot be termed to be a SEASONAL INDUSTRY at any stretch of imagination. It is otherwise, constituted by the Central Government under Section 79 of the Punjab Re-organization Act, 1966. Moreover, the work in the respondent-Board is carried out throughout the year and a number of employees are working throughout the year. There are only few employees who are engaged for a short period of 3/4 months on need basis. Thus, Board cannot be termed to be a seasonal establishment. There is also no provision under any of the rules nor any such rule could be site by the learned counsel for the petitioner during the course of arguments, which authorizes him for the grant of pension and other benefits. Rather, in such a situation rule 6.16 Section III-Revised Pension Rules (A-Gratuity and Pension) Chapter VI Vol. II of Punjab Civil Service Rules and prescribes minimum qualifying service for the purposes of pension as per Rule 6.16 referred to above is ten years. Otherwise also no doubt the Board has adopted the notification with regard to extension in service beyond the period of 58 years issued by the Government of Punjab. Even, as per that notification the said service is not countable for increment, promotion or pensionary benefits or DCRG. Since, the Board cannot be termed to be a seasonal establishment, petitioner is not entitled to any sort of pension. Otherwise also, his regular service is less than 10 years.

5. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such the same is dismissed but with no order as to costs.

6. However, it is made clear that the matter pending before the Provident Fund Commissioner or any authority under the provisions of Act

1972, shall be considered and decided by the concerned authority without being influenced of this order.

APRIL 04, 2018
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>