

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

LPA No. 1546 of 2018 (O&M)

Date of Decision: 27.11.2018

Ranbir Singh

.....Appellant

versus

Pepsu Roadways Transport Corporation, through its Secretary, Patiala and
another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Ashok Sharma Nabhewala, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra court appeal filed under Clause X of the Letters Patent is directed against the judgment and order of the learned Single Judge dated 17.04.2018 dismissing the writ petition filed by the appellant-petitioner seeking the following reliefs:-

- a) Release the benefit of one special increment for non-participation in the general strike on 08.02.1978, consequently fixation of pension and release of all pensionary benefits.
- b) Release the benefit of one increment under the ACP scheme after completion of 32 years of service and consequently fixation of pension and release of all pensionary benefits.
- c) Counting of 5 years and 7 months of service as qualifying service towards total period for fixation of pension and release of all pensionary benefits.

2. In so far as relief (a) is concerned, the case set up by the appellant-petitioner was that all such employees who did not participate in the general strike on 08.02.1978 were granted one special increment for non-participation in the strike vide order dated 16.06.1978. Subsequently, vide

letter dated 20.02.1979 it was clarified by the State Government that such employees who were on earn leave during the strike period were not to be granted the benefit of special increment. Order dated 16.06.1978 and the clarification dated 20.02.1979 were adopted by the PEPSU Road Transport Corporation where the appellant-petitioner was employed. It is an admitted case of the appellant-petitioner himself that he was on earn leave for the period 12.12.1977 to 11.03.1978.

3. In view of the clarification dated 20.02.1979 issued by the Government that the employees who were on earned leave were not entitled for the benefit of one special increment and the appellant-petitioner being one of them, we find no infirmity in the judgment of the learned Single Judge in rejecting the prayer.

4. With respect to relief (b) with regard to release of increment under ACP scheme after completion of 32 years of service is concerned, the benefit of increment on completion of the said period was granted to the appellant-petitioner w.e.f. 13.01.2005. Subsequently, it was withdrawn after show cause notice dated 04.01.2006. The ACP benefit was liable to be granted only to such employees whose overall service record is judged as 'good'. Initially, the appellant-petitioner was granted the benefit but on appraisal it was found that 50% of the service record was not good, as such it was withdrawn. His entitlement was to be considered again w.e.f. 13.01.2006 but in the meantime he was promoted as Sub Inspector in July, 2005 and thus he became disentitled for ACP benefit on completion of 32 years of service, inasmuch the entitlement for ACP is when an employee continues for a particular period in the same post or post in the same cadre. Admittedly, the cadre of the petitioner changed, on his promotion, to the post of Sub Inspector and thus he was not entitled for ACP benefit on

completion of 32 years of service and the judgment of the learned Single Judge in refusing this prayer cannot be faulted with.

5. In so far as relief (c) is concerned, with respect to counting of 5 years and 7 months service as the qualifying service towards total period for fixation of pension, undisputed facts are that his services were terminated vide order dated 12.07.1978. However, subsequently vide order dated 29.10.1982 he was allowed to join the service w.e.f. 15.10.1982. A representation made by the appellant-petitioner for counting his past adhoc service for the period from 12.05.1978 to 15.10.1982 was rejected vide order dated 22.12.1982 against which an appeal was preferred before the Chairman, Pepsu Road Transport Corporation. The Appellate Authority vide order dated 25.01.1984 held that the appellant-petitioner would be entitled to continuity of service though his claim for pay and allowances for the aforesaid period was specifically rejected. The issue raised in this regard stands answered by Regulation 6(3) of the Regulations which specifically provides that period of service without pay is not countable towards qualifying service and thus again there cannot be any exception to denial of the said prayer by the learned Single Judge.

6. In view of the aforesaid facts and discussion, the impugned judgment of the learned Single Judge dismissing the writ petition cannot be faulted with. The appeal is devoid of merits and accordingly stands dismissed in limine.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

27.11.2018
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No