

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112+114+115)

Date of Decision: 06.08.2020
CWP no.11292 of 2020

1)

Randhir Singh

...Petitioner

Versus

DHBVNL and another

...Respondents

2)

CWP no.11297 of 2020

Ishwar Dutt

...Petitioner

Versus

DHBVNL and another

...Respondents

3)

CWP no.11298 of 2020

Rajinder

...Petitioner

Versus

DHBVNL and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Ajay Kumar Kansal, Advocate, for the petitioner
(in all the petitions)

Amol Rattan Singh, J. (Oral)

All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

CWP no.11292 of 2020

By this petition filed under the provisions of Article 226/227 of the Constitution of India, the petitioner seeks issuance of a writ in the nature of mandamus, directing the respondents to count his entire 'daily wage service' w.e.f. 09.10.1980 to 15.05.1993, towards qualifying service for the purpose of pensionary benefits, in terms of the instructions dated 17.12.2013

(Annexure P-1) issued by the respondents, as also subsequent instructions dated 16.01.2014 (Annexure P-2) and 08.01.2016 (Annexure P-3); and to grant him all the benefits, i.e. all revised pensionary benefits including gratuity, alongwith interest @ 9.5% per annum.

Learned counsel for the petitioner submits that despite representations and a legal notice having been issued to the respondents in respect of the grievance of the petitioner, neither of them have been decided, with the legal notice (Annexure P-7) being dated 11.09.2019, and with the petitioner having retired from service on March 31, 2019.

Learned counsel for the petitioner has referred to Rule 3.17A of the Punjab Civil Services Rules, Vol.II (as applicable to the State of Haryana) and the instructions issued by the respondent-Nigam on 17.12.2013, 16.01.2017 and 08.01.2016 (Annexures P-1 to P-3 respectively), in support of his contention.

In view of the above instructions, (though this court is also obviously aware of Rules 3.17 and 3.17A(f) of the Punjab Civil Service Rules), this petition is disposed of with a direction to the competent authority amongst the respondents to take a decision on the representations and legal notice issued on behalf of the petitioner, by passing a detailed speaking order, within a period of four months from the date of receipt of a certified copy of this order.

While doing so, the competent authority shall also take into consideration the fact that in **Joginder Singh v. State of Haryana**, 1998(1) SCT 795, sub-rules (i) and (ii) of Rule 3.17-A of the Punjab Civil Services

Rules, Volume-II (as applicable to the State of Haryana), were struck down being violative of Article 14 of the Constitution of India, inasmuch as payment of only half the period of service of a person paid from contingency funds, was held to be not a sustainable provision.

The said judgment was thereafter followed by this court in **Nathi Ram v. State of Haryana**, 1999 (1) SCT 338 and **Rama Shankar v. State of Punjab**, 2015 (28) SCT 360.

If a completely detailed speaking order has already been passed by the competent authority, then only a short order would now be needed to be passed, annexing therewith the detailed order already passed (if any).

CWP no.11297 of 2020 and
CWP no.11298 of 2020

Learned counsel for the petitioners submits that by these petitions, the petitioners are seeking the same relief as has been sought in CWP no.11292 of 2020 (as noticed hereinabove), with the petitioners in these petitions also seeking the benefit of the third ACP scale after counting their period of daily wages in service.

In view of the above, without making any comment whatsoever on the merits of the case, these petitions are also disposed of in terms of the order passed in CWP no.11292 of 2020, hereinabove.

06.08.2020
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(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: Yes