

**102+209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.1018 of 2018 (O&M)

Date of Decision: 14.2.2020

Jai Bhagwan

.....Petitioner

Versus

Uttar Haryana Bizli Nigam Ltd. and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Parminder Singh, Advocate, for the petitioner.

Mr. Deepak Manchanda, Advocate, for the respondents.

NIRMALJIT KAUR, J. (Oral)

CM-2520-CWP-2020

Replication to the reply filed on behalf of the petitioner is taken on record.

CM stands disposed of.

CWP-1018-2018

The present writ petition is filed seeking direction to the respondents to consider the actual length of service of the petitioner w.e.f. 1.11.1979 to the date of retirement i.e. 30.11.2015 for the grant of pensionary benefits, gratuity etc.

It is contended by learned counsel for the petitioner that the respondents had counted the work charge period of the petitioner which is evident from Annexure P-2 but did not count the same while granting the pension and other retiral benefits.

Reply has been filed. As per the said reply, the petitioner had not exercised his option during his service period. He failed to deposit the employer share both of which were mandatory for counting the daily/work

charge service for the purpose of pension.

However, the said fact is found to be incorrect in view of the replication filed by the petitioner, wherein it is specifically brought to the notice of the respondents that the petitioner had already sworn affidavit to the effect that previously there was no EPF account of the petitioner and option was already given at the time of counting the daily wage/work charge service by way of letter dated 24.3.2014. Copy of the said affidavit and option given by the petitioner is annexed as Annexures P-5 and P-6. The respondent-Department had asked the petitioner to submit his affidavit to the same effect only after they had inspected the entire record and found that the petitioner is not having any EPF account number nor had subscribed to the EPF scheme and in any case, the respondents themselves had counted the daily wage/work charge service vide Annexure P-2.

In view of the same, the writ petition is allowed, the respondents are directed to count the service of the petitioner on work charge period towards grant of pension and retiral benefits from 1.11.1979 to 30.11.2015 and thereafter, the arrears be released to him alongwith interest @ 6% per annum within two months from the receipt of the certified copy of this order. In case, the same is not paid within the period mentioned above, the respondents shall be liable to pay interest @ 12% per annum after the expiry of two months.

(NIRMALJIT KAUR)
JUDGE

14.2.2020
sharmila

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No