

CWP No.1564 of 2016
Date of Decision: 10.02.2020

Karambir Singh

.....Petitioner

Versus

Managing Director, UHBVNL and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. V.D. Sharma, Advocate
for the petitioner.Mr. Armaan Midha, Advocate for
Mr. Abhilaksh Grover, Advocate
for the respondents.**NIRMALJIT KAUR, J. (ORAL)**

The prayer in the present writ petition is for directing the respondents to count the work charge service of the petitioner w.e.f. 01.01.1975 to 27.08.1980 towards qualifying service for the purpose of pensionary benefits in terms of Rule 3.17 A (g) of the Punjab Civil Services Rules, Volume II as applicable to UHBVNL and grant him all the consequential benefits i.e. revised pensionary benefits, gratuity and other retiral benefits.

Reply has been filed. As per the said reply, the Nigam had adopted the Haryana Government notification dated 04.02.1992 circulated on 06.08.1993 as well as the clarification issued on 09.08.1994 regarding counting of work charge service towards pensionary benefit. As per the said notification, the petitioner was required to exercise his option within three months, which was not done. Thereafter, extension of date for exercising the option issued from time to time. Thereafter, the Nigam, vide memo dated 18.04.2014, gave another chance for exercising the option upto 30.06.2014 for counting the work charge service towards pensionary benefits. However,

the petitioner applied for the first time on 09.11.2015, which is beyond three months period. Hence, he is not entitled to the benefits.

Heard.

A perusal of the instructions dated 06.08.1993, placed on record as Annexure P-1 shows that the same were required to be noted from all the employees and acknowledged the receipt of the same. It is specifically stated by the petitioner in the petition, which has not been denied that no such instructions were got noted from the employees at that point of time. Hence, the petitioner did not know about the same. A perusal of memo dated 18.04.2014, placed on record as Annexure R-1 shows that there is no mention even of the same. Thus, it is not understood as to how the petitioner who had long retired were to get to know of any such instructions or circulars.

As per the judgment placed on record by learned counsel for the petitioner in the case of Bachan Singh and others Vs. Managing Director, UHBVNL, Panchkula and others, decided on 11.10.2010, there is no doubt that the work charge service of the petitioner is to be counted towards qualifying service for pensionary/retiral benefits. While allowing the said writ petition, reliance was also placed on the judgment rendered by this Court in the case of Bhunda Ram Vs. UHBVNL and others, CWP No.17805 of 2009, decided 25.02.2010, wherein, three months time were granted to the petitioner in the second writ petition to exercise his option from the date of receipt of certified copy of the order passed by the High Court, which meant that although three months had long expired in the year 1993 but another three months were given from the passing of the order by

the High Court. Even otherwise, there is nothing to show that the time granted for option was mandatory in any manner especially in the case of retired employees. In fact, it is incumbent and the duty of the respondents/department to circulate and dispatch all the circulars to each of the retiree, which are of their benefit. The department is well advised to do so in future. The department can insist and lay down the specific date by which said option can be exercised, only in case, such circulars are made available and brought to their notice individually.

It is not disputed that the petitioner is otherwise entitled for counting the work charge service from 01.01.1975 to 27.08.1980 towards qualifying service for the grant of pensionary/retiral benefits.

In view of the above, the present writ petition is allowed. The respondents/department shall inform the petitioner the amount of employer's contribution towards EPF to be deposited by him alongwith interest within a period of one month. Thereafter, the respondents shall count the work charge service of the petitioner towards qualifying service for pensionary/retiral benefits and pay the amount within a period of three months from the date of receipt of certified copy of this order.

10.02.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

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