

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

220

CWP-19635-2017

Date of Decision : March 02, 2020

RATTAN LAL

.....Petitioner

VERSUS

HARYANA VIDYUT PRASARAN NIGAM LTD. AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Ram Niwas Sharma, Advocate
for the petitioner.

Mr. C.S.Bakshi, Addl. AG, Haryana.

NIRMALJIT KAUR, J. (Oral)

The prayer in the present petition is to compute the work charge service w.e.f. 17.9.1970 to 2.5.1979 towards pension and pensionary benefits as the same has not been computed.

Reply has been filed. As per the said reply, the period from 17.9.1970 to 2.5.1979 cannot be counted towards pensionary benefits as the petitioner has submitted his option for counting work charge period towards pensionary benefits but as per instructions issued by the Nigam dated 15.3.2012 the pensioner/family pensioner was required to submit his/her option upto 31.3.2012 for counting of work charge service towards pensionary benefits.

It is not disputed that the issue with respect to counting the work charge service towards pension is no more res-integra in view of judgment rendered by this Court as well as the judgment rendered by the

Full Bench in the case of **Kesar Chand Vs. State of Punjab and ors,**

AIR 1988 P&H 265(FB) wherein the services of adhoc/temporary work charge daily wager was ordered to be counted for the purpose of pension in case an employee is regularised subsequently on the said post.

However, the only objection is that the petitioner did not exercise his option within the stipulated period. There is nothing on record to show that the said instructions were brought to the notice of the petitioner. Even otherwise, as per the judgment rendered by the Hon'ble Apex Court in the case of **Dakshin Haryana Bijli Vitran Nigam and others Vs. Bachan Singh**, Civil Appeal No.4903 of 2009, decided on 30.7.2009, it would be unreasonable and unfair to deny the respondent of pensionary benefits on the said ground especially in case there is nothing on record to show that the said instructions were in the personal knowledge of the petitioner. Para No.26 of the said judgment reads as under:-

“In view of the law as has been articulated in a large number of cases where this Court has observed that any discriminatory action on the part of the Government would be liable to be struck down. Hence, in this case, it would be totally unreasonable and irrational to deny the respondent the pensionary benefits under the scheme particularly when the appellants have failed to produce any record showing that the instructions dated 6.8.1993 and 9.8.1994 were actually got noted in writing by the respondent. In the absence of any such material it can well be inferred that the respondent had no knowledge about the options called by the appellants. ”

In view of the above, the writ petition is allowed and the

respondents are directed to refix the pension after counting the period w.e.f. 17.9.1970 to 2.5.1979 as work charge service towards the qualifying service for pension. Needful be done within three months from the receipt of certified copy of this order. Thereafter the arrears shall be granted from the date of retirement alongwith 6% interest within another six months.

March 02, 2020
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No