

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

CWP No.1973 of 2017
Date of Decision: 29.1.2020

Raghubir Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Fateh Saini, Advocate, for the petitioner.

Ms. Nidhi Garg, Assistant Advocate General, Haryana.

NIRMALJIT KAUR, J. (ORAL)

Prayer in the present writ petition is for quashing of the order dated 29.4.2014 (Annexure P-8) passed by respondent No.3 and impugned order dated 21.10.2016 (Annexure P-9) passed by respondent No.2 with a further prayer to release the pensionary benefits to the petitioner after taking into account the whole period work charge service/daily wage service following by regular service from 6.6.1986 to 30.6.2009 and grant the consequential benefits and retiral benefits as also 2nd ACP.

At the outset, learned counsel for the petitioner raised two-fold arguments. Firstly, the service of the petitioner from the year 1986 to 1992 as work charge employee should be counted towards pension. Secondly, the petitioner should be given the pay scale or considered on the post of Assistant Fitter instead of Helper and thereafter, the salary of Assistant Fitter should be granted for the period from 1986 to 1992.

Reply has been filed. As per the reply, the petitioner was appointed as Helper on 6.6.1986. The period from 6.6.1986 to 30.4.1992

was counted by the Department for pension and gratuity and the same has already been released to the petitioner. The revised Pension Payment Order and revised Gratuity Payment Order dated 3.7.2017 have also been placed on record as Annexures P-4 and 5. Therefore, the petition should be dismissed as rendered infructuous.

The second argument of the petitioner that he should be considered as Assistant Fitter and not Helper for the said period as he was regularised on the post of Assistant Fitter and retired from the said post, deserves to be rejected. Inasmuch as, (a) the services of the petitioner was retrenched on 25.3.1974 by the competent authority on account of theft case reported against him. The petitioner challenged the same before the Labour Court. The Labour Court vide its award dated 3.6.1986 directed the respondents to give 'fresh appointment' to the petitioner on daily wages basis on any post equivalent to 'Diesel Pump Attendant'. The operative part of the said award reads as under:-

“In view of the settlement between the parties, the management is directed to give fresh appointment to the workman on daily wage basis on any post equivalent to diesel pump attendant. The management will consider the regularization of his service as and when his term comes. However, the workmen will not be entitled any back wages and will not be entitled to claim any benefit of past service. In view of the settlement between the parties, the reference is answered accordingly. The management is directed to issue fresh letter of appointment within week's time.”

Therefore, in terms of the said award, the petitioner was appointed as Helper, which was equivalent to the post of Diesel Pump Attendant w.e.f. 6.6.1986 and from 6.6.1986 to 30.4.1992, the petitioner

worked as Helper on daily wages and promoted as Assistant Fitter on 29.9.1995 on his turn and the said service has accordingly been counted towards pension. The award has attained finality. Hence, he cannot now claim contrary to the award and that too after 30 years.

(b) The petitioner knew very well that he was appointed as Helper way back in 1986 as per the terms of the award and did not challenge the same at that point of time. He filed CWP-25008-2013 titled as Raghubir Singh vs. State of Haryana and others, in the year 2013 after 27 years, which was disposed of on 20.1.2014. Therefore, the present writ petition deserves to be rejected on the ground of delay alone.

(c) There is no such prayer even in the present writ petition that he should be considered as Helper from the year 1986 to 1992. The only prayer is that his service as work charge should be counted towards his pension, which was followed by regular appointment as Assistant Fitter, which has already been granted.

In view of the above, the present writ petition is dismissed as infructuous as well as on merit.

(NIRMALJIT KAUR)
JUDGE

29.1.2020
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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No