

CWP No.24807 of 2016

Date of decision: 10.2.2020

Gindori Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Sandeep Singal, Advocate, for the petitioner.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

NIRMALJIT KAUR, J. (Oral)

Prayer in the present petition is for counting the daily wage service of the petitioner from 15.7.1982 to 30.9.2003 towards qualifying service for pension and other retiral benefits.

While praying for the said relief, learned counsel for the petitioner submitted that the petitioner had been continuously working from 15.7.1982 to 31.7.1997. However, the petitioner was not allowed to join thereafter. Accordingly, the petitioner raised industrial dispute and in pursuance to the Industrial Tribunal-cum-Labour Court vide award dated 9.11.2005 she was reinstated with continuity of service. Hence, she was entitled to for counting of her service from the date of her joining as 15.7.1982 uptill 1.10.2003, which was the date of her regularization.

Reply has been filed. As per para 4 of the said reply, the petitioner never worked continuously from 15.7.1982 to 30.9.2003 and therefore, only the period from 1.8.1997 to 30.9.2003 has been counted for the pension and death-cum-retirement gratuity. While disputing the claim from the period 15.7.1982 to 31.7.1997, it is contended that the petitioner worked in 9/1988 for 30 days, 3/1994 for 29 days, 4/1994 for 29 days,

7/1994 for 28 days and 9/1994 for 29 days. Learned Labour Court has inadvertently mentioned in the award dated 9.11.2005 that Sh. Ramesh Kumar, Clerk stated that record pertaining to 1982 to 3/1998 has been weeded out. Actually record only upto 3/1988 had been weeded out.

However, the averment made in the reply as well as by learned State counsel cannot be accepted as the award of the Labour Court was never challenged and has attained finality. As per the award of the Labour Court, the petitioner was granted continuity of service from the date of his joining i.e. 15.7.1982 on daily wages and the same is not disputed. The petitioner having been granted continuity of service is thus entitled for counting of the said period from 15.7.1982 till 31.7.1997 towards qualifying service for pension.

Accordingly, the present writ petition is allowed. The period from 15.7.1982 to 30.9.2003 shall be counted as qualifying service towards pension and other retiral benefits. The pension be accordingly revised and the arrears be released to the petitioner within a period of three months from the receipt of certified copy of this order alongwith interest @ 6% per annum.

(NIRMALJIT KAUR)
JUDGE

10.2.2020
sharmila

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