

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 212)**

**(1) CWP No. 7860 of 2016
Date of Decision : 03.02.2020**

Paramjeet Singh and another

....Petitioners

Versus

BBMB and others

.....Respondents

(2) CWP No. 23123 of 2016

Bhoop Singh and others

....Petitioners

Versus

BBMB and others

.....Respondents

(3) CWP No. 15740 of 2019

Muni Lal and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(4) CWP No. 15312 of 2019

Udham Singh and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(5) CWP No. 10751 of 2019

Daulat Ram and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(6) CWP No. 10799 of 2019

Rattan Lal and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(7) CWP No. 9532 of 2016

Roshan Lal

....Petitioner

Versus

Bhakra Beas Management Board and others

.....Respondents

(8) CWP No. 4538 of 2019

Balak Ram and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

CWP No. 7860 of 2016 and connected cases

3

(9)

CWP No. 8571 of 2016

Subhash Chander Chillana and others

....Petitioners

Versus

BBMB and others

.....Respondents

(10)

CWP No. 28256 of 2018

Avtar Singh and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(11)

CWP No. 21225 of 2018

Sat Pal

....Petitioner

Versus

Bhakra Beas Management Board and others

.....Respondents

(12)

CWP No. 36881 of 2019

Durga Dass

....Petitioner

Versus

Bhakra Beas Management Board and others

.....Respondents

CWP No. 7860 of 2016 and connected cases

4

(13) CWP No. 37025 of 2019

Rakesh Chand and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(14) CWP No. 18269 of 2019

Paras Ram and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(15) CWP No. 18299 of 2019

Charanjit Singh and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(16) CWP No. 28688 of 2019

Mohinder Singh and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

CWP No. 7860 of 2016 and connected cases

5

(17)

CWP No. 27797 of 2019

Ajit Singh

....Petitioner

Versus

Bhakra Beas Management Board and others

.....Respondents

(18)

CWP No. 27544 of 2019

Babu Ram and another

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

(19)

CWP No. 27622 of 2019

Hans Raj and others

....Petitioners

Versus

Bhakra Beas Management Board and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Jasmer Singh Rozera, Advocate for the petitioners
(in CWP Nos. 7860, 23123, 8571 of 2016 and CWP No.
27797 of 2019).

Mr. Rupinder Singh Minhas, Advocate for
Mr. Nitin Verma, Advocate for the petitioners
(in CWP Nos. 15740 and 15312 of 2019).

Mr. H.S. Saini, Advocate for the petitioners
(in CWP Nos. 10751, 10799, 4538, 36881, 37025, 18269,
18299, 28688, 27544 and 27622 of 2019, CWP No. 9532 of
2016, CWP No. 28256 of 2018 and CWP No. 21225 of 2018)

Mr. Rajesh Garg, Senior Advocate with
Mr. Pranav Chadha, Advocate for the respondent-BBMB
(in CWP Nos. 7860, 23123, 9532, 8571 of 2016, CWP Nos.
28256 and 21225 of 2018, CWP Nos. 10751, 10799, 4538,
36881, 37025, 18269, 18299, 28688, 27797, 27544 and 27622
of 2019).

Mr. Anil Kumar Sharma, Advocate for the respondents
(in CWP Nos. 37025 and 36881 of 2019).

Harsimran Singh Sethi, J. (Oral)

1. By this common order, all the afore-mentioned writ petitions, the details of which have been mentioned in the heading, are being disposed of as all the writ petitions involve the same question of law and similar facts. For the purpose of this order, the facts are being taken from CWP No. 7860 of 2016.

2. In the present writ petition, the claim of the petitioners is that the service which they had rendered in Beas Construction Board (hereinafter referred to as 'BCB') before their joining in Bhakra Beas Management Board (hereinafter referred to as 'BBMB'), is to be treated as a qualifying service for computing the pensionary benefits as well as for the grant of proficiency step up after 9 and 16 years of service.

3. Learned counsel(s) for the petitioners argue that the service which the petitioners had rendered with BCB is liable to be counted as a qualifying service keeping in view the settled principle of law settled by this Court in LPA No. 1809 of 2013 titled as ***Bhakra Beas Management Board and others Vs. Kewal Krishan***, decided on 23.10.2013, wherein the Division Bench of this Court has categorically held that the employees who have rendered service with the BCB, are entitled for counting of the same as

a qualifying service for computing the pensionary benefits and the Special

Leave Petition filed against the order passed in LPA No. 1809 of 2013, has already been dismissed on 06.05.2014 by giving liberty to the BBMB to file a review before the LPA Bench in case any of their contention has not been noticed by the Division Bench of this Court while passing order dated 23.10.2013 in LPA No. 1809 of 2013. The Review Petition No. 52 of 2014 filed was dismissed by the Division Bench on 22.08.2014 though, the question of law was kept open.

4. Learned counsel(s) for the petitioners further argues that not only in ***Kewal Krishan's case (supra)***, the benefit of work charge service rendered by the employee in the BCB has been allowed to be counted as a qualifying service by the BBMB but another Division Bench of this Court in CWP No. 15666 of 1998 titled as ***Sohan Singh Vs. State of Punjab and others***, decided on 01.12.2014, has allowed the same benefit, as being sought in the present writ petitions. Learned counsel(s) for the petitioners further argue that the same relief as being claimed by the petitioners has already been allowed to the other similarly situated employees, who had approached this Court and, therefore, the denial of the benefit to the petitioners of counting the service, which the petitioners have rendered with the BCB, as a qualifying service, is contrary to the settled principle of law settled in ***Kewal Krishan's case (supra)*** and ***Sohan Singh's case (supra)***. The prayer of the petitioners is for the grant of same benefit, as has been extended to the petitioners in ***Kewal Krishan's case (supra)*** and ***Sohan Singh's case (supra)***.

5. The claim of the petitioners has been contested by the respondent-BBMB. Learned senior counsel for the respondents argues that

after the judgments were rendered by the Division Bench of this Court in *Kewal Krishan's case (supra)* and *Sohan Singh's case (supra)*, another CWP No. 57 of 2012 titled as *Balbir Singh Vs. State of Punjab and others* came up for hearing before a Coordinate Bench and the same was dismissed on 17.08.2016. Learned senior counsel for the respondents further argues that the same argument, as being raised in the present writ petitions that the benefit of counting the work charge service as a qualifying service for computing pensionary benefits has been granted in *Kewal Krishan's case (supra)* and *Sohan Singh's case (supra)*, was considered by the Co-ordinate Bench while deciding *Balbir Singh's case (supra)* and same relief has been declined in view of the judgment of the Hon'ble Supreme Court of India in *Jaswant Singh and others Vs. Union of India and others*, 1980 AIR (SC) 115. The prayer of the respondents is that once a Coordinate Bench has already considered and rejected the same argument, while deciding *Balbir Singh's case (supra)*, the plea of the petitioners cannot be allowed.

6. Learned counsel(s) appearing on behalf of the petitioners contend that the judgment in *Balbir Singh's case (supra)* cannot be taken into account as the said judgment is under challenge before the Letters Patent Appeal Bench and, therefore, the petitioners are entitled for the grant of benefit of the service rendered by them in BCB as a qualifying service to be counted by the BBMB for computing pensionary benefits.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. In support of their argument for the grant of benefit of service,

which the petitioners have rendered with the BCB, to be treated as a qualifying service with the BBMB, learned counsel(s) for the petitioners are relying upon the judgment of this Court in ***Kewal Krishan's case (supra)*** and ***Sohan Singh's case (supra)***. The same judgments were cited for claiming the relief before a Coordinate Bench of this Court in ***Balbir Singh's case (supra)***. Coordinate Bench after noticing the fact that the question of law was left open by the Division Bench in ***Kewal Krishan's case (supra)*** and the judgment in ***Sohan Singh's case (supra)*** case is not applicable, declined the relief, which is being claimed by the petitioners in these writ petitions. Co-ordinate Bench in ***Balbir Singh's case (supra)*** held that keeping in view the law laid down by the Hon'ble Supreme Court of India in ***Jaswant Singh's case (supra)*** the benefit of service rendered in BDP (Bhakhra Dam Project) or BSLP (Beas Satluj Link Project), cannot be granted to the employees after they were appointed in the BBMB. The relevant paragraph of the judgment in ***Balbir Singh's case (supra)*** is as under:-

“The Division Bench of this Court in Ram Kishan’s case (supra) held that in the said case, the work charge service cannot be counted towards regular service. The Division Bench of this Court in a case relating to the work charge employee of Bhakra Dam Project, Beas Satluj Link Project and Bhakra Beas Management Board, titled as Sohan Singh through LRs Versus State of Punjab and others, (arising out of CWP No. 15666 of 1998, decided on 1.12.2014), while relying upon the Full Bench judgment of this Court in Kesar Chand Versus State of Punjab and others, 1988 (5) SLR 27, held that the work charge service is to be counted for the grant of pensionary benefits. It also comes out that in Bhakra Beas

Management Board and others Versus Kewal Krishan, an application (RA No. 52 of 2014 in LPA No. 1809 of 2013) was filed for review/recall of the order dated 23.10.2013, whereby Letters Patent Appeal arising against the order dated 29.7.2013 of the learned Single Judge, which was dismissed by a Division Bench of this Court on 22.8.2014, holding that the question of law raised hereinabove is kept open to be gone into in appropriate cases. The petitioner has also relied upon the Division Bench judgment of this Court in Bhakra Beas Management Board and others Versus Raj Kumar and others, 2016 (1) SCT 255. Further reliance has also been placed on the Division Bench judgment of this Court in Sohan Singh through LRs Versus State of Punjab and others, (arising out of CWP No. 15666 of 1998, decided on 1.12.2014), wherein reliance was placed on the authority of the Apex Court in Jaswant Singh and others Versus Union of India and others, AIR 1980 Supreme Court 115.

On the other hand, the learned counsel for respondents No. 2 to 4 has produced the authority of the Apex Court in Jaswant Singh's case (supra) and has argued that the said authority is mis-interpreted. The perusal of the said authority i.e. Jaswant Singh's case (supra) shows that in the said case, several writ petitions were filed. There were certain group of petitioners, who were working as Engineers, Overseers, teachers, Sub Divisional Clerks, Clerks, Accounts Clerks, Time Keepers etc. and there was other set of petitioners, who were work charge employees and some of them were retrenched. The cases of two categories were separately discussed. All of them were employees of Bhakra Beas Satluj Project and other projects, covered under the Beas Project. While treating the effect of the Punjab Re-organization Act, 1966, the case of the work charge employees was considered. It was also informed that as per the provisions of Section 80(6) of the Act of 1966,

the complete component was transferred to BBMB on May 15, 1976, and the Board was re-named as Bhakra Beas Management Board. About the work charge employees of Beas Project, it was observed by the Apex Court as under :-

“45. There were in all about 36000 work charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under Section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of Section 18 (3) (d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. V. Jatin Chakravorty and Ors. MANU/SC/0304/1960 : (1961) ILLJ 244 SC, it was held by this Court that it is not even necessary, in order to bind the workmen to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying Section 18 of the Act is to give an extended operation to such Settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.”

In view of the fact that the work charge employees had entered into a settlement effected between them and the

management in the conciliation proceedings, it was held that they are not entitled to any rights apart from those flowing from the aforesaid settlement.

In this way, since the petitioner had accepted the retrenchment compensation at the time of retirement from Beas Satluj Link Project, therefore, now he cannot complain that he was wrongly retrenched and that his services in Beas Satluj Project Link should be counted in BBMB where he was appointed after a gap of one year and three months. Moreover, there is an inordinate delay of more than 12 years in filing the present writ petition.

In view of the authority of the Hon'ble Supreme Court of India in Jaswant Singh's case (supra), I am of the view that the case of the petitioner is squarely covered by the said authority and since the petitioner had accepted the retrenchment compensation, which he had already received way back in the year 1982, the petitioner is not entitled to any other benefit.

Consequently, the services rendered by the petitioner in Bhakra Dam Project and Beas Satluj Link Project cannot be counted for the purpose of computing the length of service and consequently fixing the pension. Accordingly, the present writ petition is dismissed."

9. That being so, once a Coordinate Bench has considered the same arguments, which are being raised in the present writ petitions and negatived the same, the relief, which is being prayed by the petitioners, cannot be granted. Merely the pendency of Letters Patent Appeals against the judgment of this Court in **Balbir Singh's case (supra)**, will not grant the petitioner a license to contend that a view contrary to that of **Balbir Singh's case (supra)** should be taken by this Court to grant the petitioners relief as being prayed in the present writ petitions.

10. Once, all the arguments which are being raised in these petitions have been considered and rejected by a Coordinate Bench of this Court in *Balbir Singh's case (supra)*, no relief can be granted to the petitioners as their claim is squarely covered by the said judgment against them. Therefore, no interference is called for in the aforementioned writ petitions and are accordingly dismissed.

February 03, 2020
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No