

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-4813 of 2017

Date of decision: 11.02.2020

Jaspal Singh

.... Petitioner

versus

State of Punjab and others

... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunny Singla, Advocate
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

Mr. Arjun Kundra, Advocate
for respondents No.4 and 5.

HARSIMRAN SINGH SETHI, J.

In the present writ petition, the claim of the petitioner is that the service rendered by him in the Municipal Council, Kurali should be treated as qualifying service for computing his pensionary benefits after he retired from Municipal Council, Morinda on attaining the age of superannuation on 30.06.2008.

The facts as stated in the writ petition are that the petitioner joined as Peon on temporary basis in the Municipal Council, Kurali on 23.01.1981 and he continued on the same post till 30.01.1986. Thereafter, the petitioner joined Municipal Council, Morinda on 19.03.1986 and was further promoted as Clerk on 23.08.1988 in Municipal Council Morinda and while working on the said post, he retired on attaining the age of superannuation on 30.06.2008. The present writ petition has been filed by the petitioner

after 09 years of his retirement with the plea that service, which he rendered with Municipal Council, Kurali be treated as qualifying service for computing his pensionary benefits.

Upon notice of motion, the respondents have filed reply in which it has been stated that the petitioner was working as Peon on temporary basis in the Municipal Council, Kurali and further that the petitioner has approached this Court after the period of 09 years of his retirement and, therefore, the claim of the petitioner is liable to be rejected on the ground of delay.

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

Under the Punjab Municipal Act, 1911, (in short, 'the Act') post of Peon, Clerk and Junior Assistant are non-provincial posts and the appointing authority is respective Municipal Council under Section 39 of the Act. There is no *inter se* transfer of an employee between one Municipal Council to another. Once the post on which the petitioner was working in Municipal Council, Kurali is non-provincial, no benefit of the service, which the petitioner has rendered in the Municipal Council, Kurali can be granted unless and until the order of transfer grants the said benefit.

Further, the petitioner was working on temporary basis in the Municipal Council, Kurali. He was adjusted in the office of Municipal Council, Morinda in the year 1986. Nothing has been placed on record that any Provisions or Rules regulating the service conditions grant the benefit of service rendered in one Municipal Council to be treated as qualifying service by the another Municipal Council. In the absence of any rule

entitling an employee benefit of the service rendered in one Municipal Council on temporary basis to be counted as qualifying service by another Municipal Council, no benefit can be granted to the petitioner as being sought in the present writ petition.

Further, even otherwise, the petitioner has already taken the benefits upon his retirement in the year 2008 and has filed the present writ petition after the delay of 09 years his retirement. The petitioner never made any claim for counting service, which he rendered in Municipal Council, Kurali from year 1981 to 1986 during his service career for any benefits while working in Municipal Council, Morinda. Once no claim for any benefit was ever raised for counting the said service from year 1981 to 1986, no benefit of the same can be granted to the petitioner after nine years of his retirement.

No ground for interference is made out.

Dismissed.

(HARSIMRAN SINGH SETHI)

11.02.2020

JUDGE

aarti 1. Whether speaking/non-speaking?

Yes/No

2. Whether reportable?

Yes/No