

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

**CWP-8600-2017 (O&M)
Date of decision: - 16.01.2020**

Brahma Nand and another

....Petitioners

Versus

Punjab State Power Corporation Limited and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Dharam Pal, Advocate
for Mr. H.K. Brinda, Advocate
for the petitioners.

Ms. Monica Chhibber Sharma, Advocate
for the respondents.

HARSIMRAN SINGH SETHI, J. (ORAL)

The grievance which is being raised by the petitioners in the present writ petition is that though they have already retired from service on attaining the age of superannuation, but no pensionary benefits have been extended to them by the respondents and that too without any valid justification.

As per the averments made in the writ petition, petitioners were initially engaged on daily wage basis by the respondent-Corporation on 20.12.1983 and 01.07.1983 respectively. As the services of the petitioners were not being regularized by the respondent-Corporation keeping in view various policies, which were issued by the State of Punjab for the

regularization of the service of the employees and were also applicable upon the erstwhile Punjab state Electricity Board (now Corporation), petitioners filed a civil suit claiming regularization. The said suit was decreed by the trial Court on 25.01.1997 and the appeal filed by the respondents-Corporation being Civil Appeal No.166 dated 18.11.1997 was dismissed by the appellate Court on 05.05.2000. Thereafter, the respondents filed RSA No.3357 of 2000, which still stands admitted before this Court and is pending for final adjudication.

Learned counsel for the petitioners states that keeping in view the decree in favour of the petitioners and as there is no interim order in RSA No.3357 of 2000, the services of the petitioners were regularized by the respondents by an order dated 12.10.2001 (Annexure P-3). Thereafter, petitioners kept on working on regular basis and petitioner No.1 attained the age of superannuation on 31.01.2012. Similarly, petitioner No.2 attained the age of superannuation on 31.01.2017.

Learned counsel for the petitioner argues that as the petitioners were working continuously from the year 1983 onwards, even the service rendered by them prior to 12.10.2001 was required to be taken into consideration for computing the pensionary benefits, but the same was not done on the ground that prior to year 2001 the EPF share was not deducted. Thereafter, the petitioners were asked by the respondent-Corporation to deposit their share alongwith 12% interest, which both of the petitioners immediately deposited. After the deposit of the EPF share, there being no further impediment for the release of the pensionary benefits in respect of the total length of service, petitioners requested the respondent-Corporation for the release of the pension and other benefits. Learned counsel for the

petitioners states that as despite their claim, no pensionary benefits were released, petitioners approached this Court by filing the present writ petition. The prayer of the petitioners is to direct the respondent-Corporation to release all the pensionary benefits alongwith interest.

Upon notice of motion, respondents have filed a reply. The stand taken by the respondents is that the order dated 12.10.2001 vide which the services of the petitioners were regularized, is subject to the outcome of RSA No.3357 of 2000, and as the claim for regularization of the service of the petitioners is still under adjudication, no benefit of pension can be granted before decision of this Court in RSA No.3357 of 2000.

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

It is a matter of fact that the services of the petitioners have already been regularized by the respondents, vide order dated 12.10.2001. Though, RSA No.3357 of 2000 is pending, but there is no interim order. Once, on the date when the petitioners retired from service, they were regular employees of the respondent-Corporation, they are entitled to all the benefits, which a regular employee enjoys after retirement. Petitioners cannot be left in limbo for the release of their pensionary benefits till RSA No.3357 of 2000 is decided. Once, the regularization of the services of the petitioners was ordered subject to the decision in RSA No.3357 of 2000, in case any order is passed in favour of the Corporation in the Regular Second Appeal, petitioners will be under obligation to implement the same. As of now, once the petitioners retired as regular employees and there is no impediment in the release of the pensionary benefits, withholding of the same by the respondent-Corporation, only on the ground that the claim of

regularization of the services of the petitioners is still under adjudication, cannot be permitted.

Keeping in view the facts and circumstances of this case, the claim of the petitioners for the release of the pensionary benefits alongwith arrears is allowed. Consequently, the respondents are directed to release the pensionary benefits alongwith arrears to the petitioners within a period of two months from the date of receipt of a certified copy of this order. It is made clear that the release of the abovesaid benefits will be subject to the decision of this Court in RSA No.3357 of 2000. Further, the petitioners are at liberty to claim the interest, in case they are entitled for, on the retiral benefits, which are being released under this order, after a decision in RSA No.3357 of 2000.

Present writ petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

January 16, 2020
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Whether reasoned/speaking?	Yes
Whether reportable?	Yes