

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.207

CWP No.24911 of 2015

Date of Decision: 08.09.2022

Ved Singh and others

.... Petitioners

Versus

Haryana Vidhyut Prasaran Nigam Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate and
Ms. Tanya Sehgal, Advocate
for the petitioners.

Mr. R.D.Bawa, Advocate,
Mr. Samuel Gill, Advocate and
Mr. Dipanshu Kapur, Advocate
for the respondents.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance of the petitioners is that the benefit of the service which the petitioners had rendered with the Beas Construction Board prior to the appointment of the petitioners with the respondent-Haryana State Electricity Board (now known as Haryana Vidhyut Prasaran Nigam Ltd.) be extended to them while computing the qualifying service for the grant of pensionary benefits.

As per the averments made in the petition, the petitioners were appointed on various dates with the Beas Construction Board after being selected by duly constituted Selection Committee. The petitioners continued working in the Beas Construction Board till the date the petitioners were appointed on contract basis with the erstwhile Haryana State Electricity Board in the year 1988. Petitioners continued working on contract basis upto the year 1992 when their services were regularized in the respondent-Board.

The Haryana State Electricity Board was bifurcated into various corporations and the petitioner were allocated the respondent-Nigam where they continued working till they attained the age of superannuation.

The grievance of the petitioners is that they were only given benefit of the services which they had rendered with respondent-Board/Nigam and not of the services rendered with Beas Construction Board, which act of the respondents is totally arbitrary and illegal and discriminatory as the similarly situated employees have already been granted same benefit after being approved by the competent authority within the Nigam.

Learned counsel for the petitioners submits that two employees namely Biri Singh son of Tulsi Ram and Puran Singh son of Hanumant Singh, who were also working in the Beas Construction Board earlier and thereafter, were appointed in the Haryana State Electricity Board, has already been granted the benefit of services rendered in Beas Construction Board, hence, petitioners are also entitled for the same benefit, being similarly situated.

After notice of motion, the respondents have filed reply wherein it has been submitted that as the petitioners were given a fresh appointment in the Haryana State Electricity Board, the benefit of service rendered with Beas Construction Board can not be extended to them.

The case was heard by this Court on 17.09.2019, on which date, the following order was passed:-

“Counsel for the petitioner(s) states that one Sh. Biri Singh S/o Sh. Tulsi Ram who was working along with the petitioner(s) as well as Sh. Puran Singh S/o Sh. Hanumant Singh, who was also working along with the

petitioner(s) in the Beas Construction Board earlier and then were absorbed with the Haryana State Electricity Board, have been granted benefit of the service rendered by them in BCB for the purpose of increment as well as the said period has been counted as a qualifying service for computing the pensionary benefits.

Counsel for the respondent(s) is directed to file an affidavit as to whether any similarly situated person such as Sh. Biri Singh and Sh. Puran Singh, the details of whom have been given in paragraph Nos. 7 and 8 of this petition were granted the benefit by the respondents on their own, which are being sought by the petitioner(s) in the present petition.

Adjourned to 10.12.2019.”

In pursuance to the said order, the respondents have filed an affidavit of Er. Deepak Sharma, Executive Engineer, Transmission System Division, HVPNL, Ambala dated 03.12.2019, in which it has been conceded by the respondents that the benefit of service rendered by two employees in Beas Construction Board has already been extended to them as qualifying service for computing pensionary benefits after being approved by the competent authority of the respondent-Nigam. The relevant portion of the affidavit is as under:-

“Para No.7 That it is relevant to mention that Sh. Biri Singh son of Sh. Tulsi Ram was earlier working in BCB and was thereafter appointed as work charged AFM on 27.08.84 under XEN Grid S/Stn. Const. Divn. HSEB, Karnal. After granting due annual increment to the official, his service was regularized as a regular AFM in scale of Rs.1400-40-1800-EB-50-2300 vide Const. Division, HSEB, Panchkula CH. No.25-ECG-79 dated 08.05.90. The pay of the official has been protected at Basic Pay of Rs.

1560+40.PP/PM as on 16.05.90 F.N from the date of joining as a regular AFM with the next date of increment as regular AFM as on 01.05.1991 under the office of XEN Grid Const. Division HSEB, Karnal.

Further it is mentioned that being the controlling authority of SDO No-III, he was transferred from the XEN Grid Const. Division HSEB, Karnal to Construction Division, Panipat w.e.f. 01.09.1991.

After Acceptance of Option from the official under reference to CE/Admin. HVPNL, Panchkula memo no-Ch 18/Pen/G-43(2011) dated 21.06.2011, his work charge service has been counted for pensionary benefit after deposit of E.P.F. of Board's share alongwith annual increment & other pensionary benefits after pre audit of the service book from the concerned authority from time to time and on completion of superannuation period of his service he was retired from service after giving all the pensionary benefits to the official.

Para No.8 That similarly Sh. Puran Singh S/o Sh. Hanumant Singh was appointed as work charged cleaner as on 19.09.1980 under Executive Engineer Central store HSEB panipat. As per instructions given by the competent authority, his service was regularized as a regular driver vide SE/Const. O&M circle HVPNL, Karnal memo No-1/EPT/P-2338 dated 05.12.2002. The pay of the official has been protected which was already recorded in his service book.

Similarly after Acceptance of the Option from the official his work charged service in respect of the official is hereby treated towards pensionary benefits vide office order no.13/G-6 dated 13.01.2014.

Further it is intimated that on completion of superannuation period of the service, he was retired from

the service to give all pensionary benefits after pre-audit of his service book time.”

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

The only question which arises for consideration before this Court is whether the petitioners are to be given the benefit of service which they have rendered with Beas Construction Board as qualifying service for computing pensionary benefits. In the reply filed, the respondents have conceded a fact that the petitioners No.6 and 7 have already been granted the said benefit. That being so, why the same benefit has been denied to the other petitioners, no reason has come forward in respect of the same

Furthermore, the two employees namely Biri Singh and Puran Singh, who had also worked with the Beas Construction Board prior to their joining to the Haryana State Electricity Board, have been granted the benefit as being claimed by the petitioners in the present petition. Once, similarly situated employees have been given the benefit, the same has to be extended to similarly situated persons without any discrimination. The respondents have conceded the factum that Biri Singh and Puran Singh have already been granted the said benefit as being claimed by the petitioners. That being so, the petitioners are also held entitled for the grant of same, failing which it will amount to discrimination between the similarly situated employees.

Further, the said question has already been answered by a Coordinate Bench of this Court while passing judgment in **CWP No.14449 of 2011** decided on 26.05.2015 titled as **Chiranji Lal and others versus HVPNL and another**. The same benefit of the work charge service rendered

in Beas Construction Board has already been extended to the petitioners

therein and one of the ground taken to grant the benefit in **Chiranji Lal's case (supra)** is grant of benefit to the similarly situated employees namely Biri Singh and Puran Singh, which judgment has already been implemented by the respondents.

Keeping in view the facts stated hereinbefore, the claim of the petitioners is covered by the judgment of Coordinate Bench rendered in the **Chiranji Lal's case (supra)** as well as on the factual aspect that the similarly situated employees have already been extended the same benefit.

Keeping in view the above, the claim of the petitioners is held to be meritorious and the same is allowed. Respondents are directed to grant the petitioners the benefit of the service which the petitioners had rendered with Beas Construction Board as qualifying service for computing the pensionary benefits. The petitioners will also be entitled for the consequential benefits. However, the arrears would be restricted to 03 years and 02 months prior to the filing of the present writ petition.

Let this order be complied with within a period of two months from the receipt of copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

08.09.2022
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No