IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110+219) **CWP No. 21113 of 2018 (O&M)**
Date of Decision : 08.09.2022

Jai Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naresh Kaushik, Advocate for the petitioner.

Mr. R.S. Budhwar, Addl. A.G., Haryana.

Mr. Padam Kant Dwivedi, Advocate
for respondents No. 2, 3 and 5.

Mr. Rajesh Hooda, Advocate
for respondent No. 6.

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<u>Harsimran Singh Sethi J. (Oral)</u>

<u>CM-13353-CWP-2022</u>

Present application has been filed for placing on record documents as Annexures P-14 to P-16.

Application is allowed and documents as Annexures P-14 to P-16 are taken on record.

<u>CWP-21113-2018</u>

In the present petition, the grievance of the petitioner is that despite the fact that he was given the benefit of service rendered by him from 05.05.1977 to 30.11.1988 in M/s Haryana Tanneries Limited to be treated as a qualifying service for computing the pensionary benefits while passing order in CWP No. 6595 of 2014 decided on 07.05.2015, still no benefit of the same has been given to him on the ground that there is no record of the petitioner with regard to the deduction of the CPF/EPF at the time when he was working with M/s Haryana Tanneries Limited.

Learned counsel for the petitioner submits that petitioner was a mere employee with M/s Haryana Tanneries Limited and the job of securing the record of the deposit of CPF/EPF amount is with the employer only and in case, the same has not been retained or has not been forwarded to the subsequent employer, the petitioner cannot be punished for the said default.

After notice of motion, the respondents have filed the reply. Learned counsel for respondent No. 6 submits that no liability can be fastened upon respondent No. 6 to provide the record for the reason that the maintenance of the record of the employee with regard to the deposit of CPF/EPF is to be done by the employer concerned and till the particular number allotted to the employee in which account deposits were made by the employer, is brought to the notice of the authorities, no verification of the deposits can be done and in the present case, despite repeated requests and reminders, no number under which the CPF/EPF of the petitioner as deducted by M/s Haryana Tanneries Limited while the petitioner was serving the said institution was deposited, has been brought to the notice of respondent No. 6 and hence, no information with regard to the deposit of any amount by M/s Haryana Tanneries Limited against this regard can be ascertained and furnished.

Learned counsel for respondent No. 2, where the petitioner was appointed after M/s Haryana Tanneries Limited was closed in the year 1988, submits that though the record of the petitioner was sent to respondent No. 2

but no information regarding any deduction of the amount by M/s Haryana Tanneries Limited for being deposited as CPF/EPF of the petitioner has been received and under these circumstances though, the petitioner has worked with M/s Haryana Tanneries Limited for the period in question but due to the fact that the payment of the CPF/EPF has not been established, no benefit of the said service can be extended to the petitioner while computing the pensionary benefits.

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

The record of deduction of CPF/EPF is to be maintained by the employer concerned and the duty of deposit of the same is fastened upon the employer only and not upon the employee. Once, it is not a disputed fact that the petitioner has discharged the duties with M/s Haryana Tanneries Limited for the period in question, the petitioner becomes entitled for counting the said period, especially when, the same benefit has already been extended in the case of similarly situated employees, who were also absorbed in the various other organizations after M/s Haryana Tanneries Limited closed.

Now the question which arise is, how to solve the dispute, as to whether, the amount of CPF/EPF for the period in question was deposited or not. Learned counsel for the petitioner submits that in order to get the benefit, the petitioner is ready to deposit the CPF/EPF, again with regard to his share with interest so that the petitioner could get the benefit of the said service as qualifying service for the computation of pensionary benefits. The said gesture is enough to conclude that the demand of the petitioner is genuine.

Learned counsel for respondent No. 2 submits that the petitioner will only be depositing the employee's share only and as M/s Haryana Tanneries Limited has already closed, the question will arise as to who will deposit the share of M/s Haryana Tanneries Limited. As, the petitioner joined respondent No. 2 after M/s Haryana Tanneries Limited closed and all the record was sent to respondent No. 2, in the facts and circumstances of this case, the employer share will be deposited by respondent No. 2 being the successor of M/s Haryana Tanneries Limited in respect of the employment of the petitioner.

Let the amount which the petitioner is liable to deposit so as to count the service, which the petitioner had rendered with M/s Haryana Tanneries Limited as qualifying service, be brought to the notice of the petitioner within a period of two months from the receipt of copy of this order. The employee's share along with interest will be deposited by respondent No. 2 with the authorities concerned and thereafter, the petitioner be given the benefit as extended to him by the Co-ordinate Bench while passing the order dated 07.05.2015 (Annexure P-1) passed in CWP No. 6595 of 2014 so as to give him the benefit of service rendered in M/s Haryana Tanneries Limited towards retiral benefits.

Petition is allowed in above terms.

September 08, 2022 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes