

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-7729-2016

Date of Decision :18.05.2022

Mahavir Singh

..Petitioner

Versus

**Uttari Haryana Bijli Vitran Nigam Limited
and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate for the petitioner.

Mr. Hitesh Pandit, Advocate for the respondent-Nigam.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the prayer of the petitioner is that the daily wage service, which the petitioner had rendered with the respondent-Nigam starting from 23.09.1979 till his services were regularized i.e. 17.10.1990 should be taken into account as qualifying service for computing his pensionary benefits.

As per the averments made in the petition, the petitioner initially joined the respondent-Nigam on 23.09.1979. While the petitioner was working, his services were terminated on 20.05.1982 and the said termination was challenged by the petitioner before the Industrial Tribunal and vide Award dated 24.10.1986, termination of the services of the petitioner was held to be bad and the petitioner was reinstated in service with all back wages. In pursuance to the said award, the petitioner was

reinstated in service and ultimately his services were regularized by the respondent-Nigam on 17.10.1990. On 20.09.1992, the petitioner was promoted as Assistant Line Man and, thereafter, on 04.03.2010 as Line Man from which post he retired on attaining the age of superannuation on 30.04.2016.

Learned counsel for the petitioner argues that once the petitioner had rendered daily wage services starting from 23.09.1979, which services were ultimately regularized by the respondent-Nigam on 17.10.1990, the same needs to be taken into account as a qualifying service for computing the pensionary benefits of the petitioner, keeping in view the Rule 3.17 of the Punjab Civil Services Rules, 1970, which have duly been adopted by the respondent-Nigam for regularizing the employees.

After notice of motion, the respondent-Nigam have filed reply, wherein, it has been stated that the petitioner had only informed the department that he remained engaged as a daily wager from 23.09.1981 to 14.06.1987 and now the claim of the petitioner is from the year 1979, which is incorrect. Learned counsel for the respondent-Nigam submits that there is no record with the respondents to show that petitioner was ever appointed in the year 1979 and he worked on daily wage basis. Learned counsel for the respondent-Nigam further submits that the respondent-Nigam is admitting the claim of the petitioner starting from the year 1987 onwards till the regularization of his services on 17.10.1990.

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

Learned counsel for the petitioner argues that in the present case, the petitioner had rendered services on daily wage basis starting from

23.09.1979 onwards till 17.10.1990. Though, in the reply, the respondents are disputing the same but, the document including the award of the competent Court of law, which has been placed on record to show that in fact the petitioner was appointed on 23.09.1979 and his services were terminated in 1982, which termination was held to be bad by the Labour Court vide Award dated 24.10.1986. In the said award, the date of appointment of the petitioner has duly been mentioned as 23.09.1979. That being so, the dispute about the period of daily wage service of the petitioner being raised by the respondent-Nigam cannot be accepted.

Further, by an award of the Industrial Tribunal, Haryana dated 24.10.1986, the petitioner was reinstated in service with back wages, meaning thereby, the petitioner had continuity in service and, therefore the petitioner is entitled for the benefit of counting his daily wage service starting from 23.09.1979 till 17.10.1990 as qualifying service for computing his pensionary benefits.

There is no dispute that the Punjab Civil Services Rules, 1970 have been adopted by the respondent-Nigam and according to Rule 3.17 of the said rules, daily wage services rendered by an employee prior to his/her regularization is to be treated as qualifying service for computing his/her pensionary benefits.

Not only as per the rule governing the service but, as per the settled principle of law settled by the Full Bench of this Court in CWP-2864-1983 titled as **Kesar Chand vs. State of Punjab through The Secretary P.W.D B & R Chandigarh and others** decided on 02.06.1988, daily wage service rendered by an employee is to be taken into account as a qualifying service for computing his pensionary benefits.

Nothing has been placed on record by the learned counsel for the respondent-Nigam to controvert the settled principle of law settled by the Full Bench of this Court in **Kesar Chand's case (Supra)**.

Keeping in view the above, prayer of the petitioner is allowed. Respondent-Nigam is directed to compute the pensionary benefits of the petitioner afresh after taking into account the daily wage service rendered by the petitioner from September, 1979 onwards till the date his services were regularized as well and grant him the benefit of arrears as well.

The question which arises before this Court for consideration is whether the petitioner will also be entitled for interest on the said arrears or not.

In the present case, law was very much settled when the petitioner retired from service and the same should have been applied by the respondents themselves rather than creating dispute on facts and law. Respondents have forced the petitioner to approach this Court so as to get the benefit for which, he was entitled for, even on the date when he retired from service i.e. 30.04.2016 not only as per the rules governing the service but, as per the settled principle of law also. Hence, the petitioner needs to be compensated for the same. The arrears which will be recomputed now will also carry interest @ 6% per annum from the date the petitioner retired till the actual payment will be released.

Let computation under this order be done within a period of two months from the date of receipt of copy of this order and the amount so calculated shall be paid to the petitioner within a period of four weeks thereafter.

The writ petition is allowed in above terms.

May 18, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No