

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

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CWP-8121-2016

Date of decision : 23.05.2022

MAM CHAND GUPTA

..... Petitioner

VERSUS

HARYANA POWER GENERATION CORPORATION LTD AND ORS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Shvetanshu Goel, Advocate
for the petitioner.

Mr. Tarun Seth, Advocate for
Mr. Sumit Jain, Advocate
for the respondents.

HARSIMRAN SINGH SETHI, J. (Oral)

The present petition has been filed for the grant of pensionary benefits on the basis of the last drawn pay, which the petitioner was drawing while being on deputation with the Bhakra Beas Management Board (hereinafter referred to as “BBMB”).

As per the averments made in the petition, the petitioner initially joined Haryana State Electricity Board as a Line Superintendent on 22.08.1968. Thereafter, he was promoted as a Junior Engineer on 13.11.1992. The petitioner was sent on deputation with the BBMB on 12.04.1984 and he continued working there. Though, the petitioner was not promoted in his own parent cadre but, the BBMB gave the petitioner the charge of the post of Sub Divisional Officer on 01.02.1995 and petitioner continued working as such till he attained the age of superannuation on 30.09.2004.

The prayer of the petitioner is that the petitioner should be given the benefit of the pay which he was drawing with BBMB for fixing his pensionary benefits.

Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that the petitioner was only on deputation with BBMB and once, in the parent cadre, the petitioner was Junior Engineer, his pensionary benefit is to be considered on the said notion and not on the basis of promotion, which was granted to the petitioner while working on deputation. It has been further mentioned that in a similarly situated case, being **CWP-5457 of 2001 titled Sarjit Singh etc. Vs. State of Punjab and others**, this Hon'ble Court has directed that the pay of the pension is to be fixed according to the Civil Services Rules applicable upon the employees of the State of Haryana.

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

In the present case, the petitioner was on deputation with BBMB. The BBMB, granted the petitioner the notional promotion despite the fact that in the parent cadre, the petitioner was not eligible to get the promotion as S.D.E keeping in view his low seniority position. After retirement, the pension is to be paid by the Government of Haryana and not by the BBMB. That being so, the pension of the petitioner is to be fixed on the basis of the substantive pay which, the petitioner would have drawn if the petitioner would have continued in the service with the State of Haryana. It is conceded position that the petitioner has already been given the retiral benefits by taking into account the position of the petitioner, which he would have enjoyed, had he continued working with the Government of Haryana.

Any promotion granted on notional basis while working on deputation, by the borrowing department, cannot be taken into account for fixing the pensionary benefits in the parent department. No rule has been pointed out by the learned counsel for the petitioner to contend that while working on deputation, even the pension is to be fixed on the basis of the salary being drawn by an employee while on deputation.

Keeping in view the above, no ground is made out to grant the petitioner the concession of the benefit as being prayed for.

Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

23.05.2022

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Whether speaking/reasoned
Whether Reportable :

Yes
No