

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

CWP-6493-2017

Date of decision : May 23, 2022

Bhupinder Singh

.... Petitioner

Versus

Pepsu Road Transport Corporation (PRTC) and others ...Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Aman Sharma, Advocate for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

Learned counsel for the petitioner argues that though in the present petition, the prayer of the petitioner is for the grant of six increments, for the period the petitioner remained out of service i.e. from 20.04.1982 till 24.12.1987; the petitioner will be satisfied at this stage if the said period is taken into account towards qualifying service for computing the pensionary benefits.

Learned counsel for the petitioner argues that the petitioner's services were terminated by the respondents on 20.04.1982 which action was impugned before the Labour Court and vide Award dated 26.05.1987, the petitioner was reinstated in service with continuity in service without back wages, in compliance of the same the petitioner was taken back in service on 24.12.1987 and therefore, once the petitioner was granted continuity in service, he is entitled for computing the said period as a qualifying period for computing the pensionary benefits.

Learned counsel for the respondents submits that once the petitioner did not perform the duties for the said period, the same cannot be taken into account as a qualifying service, keeping in view the PRTC Regulation, 1992.

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

It is a settled principle of law that the daily wages service rendered prior to the regularization, has to be taken into account as a qualifying service for computing the pensionary benefits.

Even otherwise, in the present case, the services of the petitioner were terminated in the year 1982, which termination was held to be bad by the competent Court of law in the year 1987 and the petitioner was granted reinstatement with continuity in service but without back wages. Once the continuity in service is granted irrespective of the back wages, the petitioner is deemed to have continued in service. Once the petitioner is deemed to have continued in service starting from 1982 onwards, the period starting from 1982 to 1987 has to be taken into account towards qualifying service for computing the pensionary benefits otherwise the same will be contrary to the direction given by the Labour Court granting continuity in service while reinstating the petitioner.

Keeping in view the above, the prayer of the petitioner, as argued before this court, that the petitioner be given benefit of service from 20.04.1982 till 24.12.1987 towards qualifying service for computing his pensionary benefits, is allowed.

Let the respondents re-calculate the pensionary benefits of the petitioner and the difference of monetary benefits for which the petitioner is found entitled be released to him within a period of two months from the date of receipt of copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

May 23, 2022

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Whether speaking / reasoned	Yes
Whether Reportable:	No