

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.33492 of 2019 (O&M)
Date of Decision: 20.09.2022

Daljit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Ish Puneet Singh, Advocate, for the petitioner.

Mr. Ajit Singh Natt, AAG, Punjab, for the respondents.

VIKAS SURI, J. (Oral)

The petitioner has invoked the jurisdiction of this Court by this present petition under Article 226/227 of the Constitution of India, seeking the following substantive relief:-

- “i) a writ in the nature of certiorari be issued for quashing of the impugned order dated 14.06.2019 (Annexure P-10) passed by respondent No.2 being contrary to facts and law;
- ii) a writ in the nature of mandamus be issued directing the respondents to count the service of the petitioner from 18.07.1980 to 27.07.1990 as ‘qualifying service towards the pensionary benefits’ of which he has been deprived of by treating it the period from 18.07.1980 to 27.07.1990 (temporary service) as a non-qualifying service while he has not contributed towards the contributory Provident Fund.”

The brief facts averred in the petition are that the petitioner was appointed as a Clerk for a period of six months vide order dated 16.07.1980 (Annexure P-1). The said appointment was through the Employment Exchange after following the due procedure of selection.

The period of six months was extended from time to time up to 26.05.1981 and vide order of the same date, he was appointed as Panchayat Secretary on 89 days basis.

On 03.06.1981, one another person namely Anil Singh was appointed as a Clerk on compassionate ground and the petitioner was relieved of the duty and on the following date, i.e. 04.06.1981, petitioner joined as Panchayat Secretary in the office of the Block Development and Panchayat Secretary, Block Shahkot, District Jalandhar. Petitioner continued to work on the post of Panchayat Secretary on 89 days basis.

On 31.10.1981 on being transferred to the office of the Block Development and Panchayat Officer of the Block Jalandhar West and the petitioner joined as Panchayat Secretary on the same date. Thereafter, the services of the petitioner were regularized as Panchayat Secretary vide order dated 07.12.1989, passed by the Director, Rural Development and Panchayats, Chandigarh w.e.f. 28.07.1988.

Petitioner was admitted to contributory fund after two years of regularization of Panchayat Secretary on 28.07.1990. His services on the post of Panchayat Secretary having been regularized w.e.f. 28.07.1988.

The petitioner after attaining the age of superannuation, retired on 31.08.2006.

The claim as such for counting the period of service from 16.07.1980 to 27.07.1990 as qualifying service towards pensionary benefits rests on the interpretation of Rule 2(k) of the Punjab Samity and Zila Parishad Employees Pension and Provident Fund Rules 2000 (in short “the 2000 Rules”).

Learned counsel for the parties are *ad idem* that the said

question of law as raised in this petition is no longer *res integra* and is covered on all fours by the decision dated 23.05.2022 in CWP-24332-2016, titled ***Amarjit Singh vs. State of Punjab and others***, in favour of the petitioner.

It is also not in dispute that notice of motion was issued placing reliance on CWP-1977-2016 titled ***Bhikam Bali vs. State of Punjab and others***, and the said petition has also been decided along with Amarjit Singh's case (supra), by the common order.

Counsel would also point out that the petitioner, seeking the aforesaid benefits, had earlier invoked the jurisdiction of this court by way of CWP-16054-2007, which was disposed of on 05.09.2018 with the following directions and order:-

“At the very outset, learned counsel for the petitioner submits that she feels satisfied in case a direction is issued to respondent No.2 to consider and decide the application dated 15.12.2006 (P-9), which is still pending with respondent No.2 within some time bound manner.

2. In view of the above but without expressing any opinion on the merits of the case, instant petition is disposed of with a direction to respondent No.2 to consider and decide the afore-said application dated 15.12.2006(P-9) especially in view judgment passed by Hon'ble Division Bench of this Court in CWP No.5661 of 1999, titled as **Kasturi Lal Khurana and others vs. State of Punjab and others**; decided on 04.04.2000 and also in view of judgments passed by this Court in CWP Nos.5131 of 2010, titled as Sushil Kumari vs. State of Punjab and others; decided on 01.04.2013, 9125 of 2011, titled as Satish Rani Sood vs. State of Punjab and others, decided on 01.04.2013 and CWP No.4378 of 2006, titled as Sita Devi w/o Manohar Lal vs. State of Punjab and others; decided on 13.08.2015 within a period of three months from the date of receipt of certified copy of this order.

3. However, in case petitioner still feels aggrieved by any of the

order passed by respondent No.2, he shall be at liberty to have recourse to other remedies available under the law including to approach this Court.”

The petitioner had to again approach this Court by way of contempt petition to enforce compliance of the order dated 05.09.2018, which was registered as COCP-1091-2019 and role was issued therein.

Thereafter, the impugned order dated 14.06.2019 was passed rejecting the claim of the petitioner which has been impugned in the present petition.

Heard learned counsel for the parties.

In view of the discussion and keeping in view the fact that the petitioner had been litigating for his legitimate right since 2007, i.e. soon after his retirement on 31.08.2006. Learned counsel for the petitioner would submit that restricting the claim of the petitioner to 38 months is not warranted for in the present case.

Learned State counsel though assertively opposes the said plea but is not in position to deny that the petitioner had been litigating for his legitimate claim since 2007 or refer to any provisions or precedent in support of his submission.

It is well settled law that an action of Court should not prejudice any party and as such, the delay caused in disposal of the earlier writ petition of the petitioner should not be held to the detriment of the petitioner.

Accordingly, the present petition is disposed of in terms of decision dated 23.05.2022 in CWP-24332-2016, titled ***Amarjit Singh vs. State of Punjab and others*** and other connected petitions, with the only modification that the embargo restricting grant of monetary benefits to 38

months would not apply in the case of the petitioner, as he has been agitating for his claim from soon after his retirement.

The present petition is disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

September 20, 2022
vcgarg

Whether reasoned/speaking: Yes

Whether reportable: Yes