

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

250

CWP-5218-2023

DECIDED ON: 28.11.2023

ZILE SINGH

....Petitioner

VS

STATE OF HARYANA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rekhansh Rampal Sharma, Advocate
for the petitioner.

Ms. Dimple Jain, DAG, Haryana.

Mr. Vikram Singh, Advocate and
Mr. G.S. Gorla, Advocate
for respondents No.2 to 6.

SANDEEP MOUDGIL, J (ORAL)

Present writ petition under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the order dated 26.07.2019 (Annexure P-2) for counting the daily wages period rendered by the petitioner w.e.f. 07.12.1979 to 07.12.1986 and work charge period from 07.12.1986 to 20.07.1990 that is prior to his regularization in service as T/Mate on 20.07.1990.

Contention of counsel for the petitioner is in the form of earlier writ petition preferred by him bearing CWP No.17188-2018 titled as “Zile Singh Vs. State of Haryana & Others which was disposed of by this Hon’ble Court on 03.08.2018 with the following order:-

*“Present: Mr. N.S. Behgal, Advocate
for the petitioner.*

JASPAL SINGH, J (ORAL)

*By virtue of instant petition preferred
under Article 226 of the Constitution of*

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

CWP-5218-2023

-2-

India, petitioner has sought a writ in the nature of mandamus directing the respondents to count his daily wage period w.e.f. 07.12.1979 to 07.07.1987 and work charge period i.e. w.e.f. 07.12.1987 to 20.07.1990 towards the qualifying service and by counting the same re-fix his pension and pensionary benefits along-with interest @18% per annum as per policy dated 26.11.2013 (P-2) with further prayer to give the benefit of the 3rd ACP by counting his whole service.

2. The contention of learned counsel for the petitioner is that though legal notice dated 30.05.2018 was duly served upon the respondents but till date neither any reply to the afore-said notice has been received nor any conscious CWP No. 17188 of 2018 decision has been taken. He further submits that he feels satisfied in case a direction is issued to respondents to consider and decide the afore-said legal notice in a time bound manner.

3. In view of submission made by learned counsel for the petitioner but without expressing any opinion on the merits of the case, instant petition is disposed of with a direction the respondents to look into the grievances unfolded by the petitioner in the legal notice dated 30.05.2018 (P-3) in accordance with law, rules and regulations within a period of three months from the date of receipt of certified copy of this order.

4. However, in case petitioner feels satisfied by any of the order(s) passed by the afore-said authorities, he shall be at liberty to have recourse to other remedies available under law including to

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

CWP-5218-2023

-3-

approach this Court.”

Pursuant thereto, a speaking order dated 26.07.2019 (Annexure P-2) was passed by the respondent Nigam vide which the claim of the petitioner was declined primarily only on the ground that he is not entitled for counting the daily wages period/work charge period as qualifying service rendered by the petitioner w.e.f. 07.12.1979 to 07.12.1986 in light of Rule 3.17 (A) of Punjab Civil Services Rules.

Learned counsel for respondents on the other hand has argued on the strength of the aforesaid rule to say that the order dated 26.07.2019 (Annexure P-2) is just and fair and has been correctly and rightly passed in as much as apart from the application of the aforesaid rule. The petitioner was to exercise an option for counting of work charge service towards pensionary benefit upto 30.06.2014, in view of the memo No.CH-2440/CAO/PEN/UH dated 18.04.2014 by the office of Chief Accounts Officer (Pension), UHBVNL, Panchkula, copy of which is already on record as (Annexure R-1).

However, no other argument has been raised on behalf of the petitioner or counsel for the respondent-UHBVNL. Having gone through the entire submissions as well as pleadings raised in the petition and stand taken by the respondents in their written statement which was filed on 07.08.2023 before this Court. The claim of the petitioner has been declined on two accounts i.e. firstly, he is not entitled to the counting of daily wage service period ranging from 01.07.1987 to 01.08.1990 in the light of Rule 3.17 (A)(g) of Punjab Civil Service Rules and secondly, the petitioner failed to exercise option for counting of work charge service for the pensionary benefits within

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

CWP-5218-2023

-4-

stipulated period as per policy/instructions dated 18.04.2017 which was invited vide (Annexure R-1) dated 08.04.2014 to which the petitioner failed to submit his choice.

Heard.

Relevant portion of the Rule 3.17 (A)(g) of Punjab Civil Service Rule reads as under:

“g:- the entire service rendered by an employee as work charged shall be reckoned towards retirement benefits provided:-

(iii) Such service⁴ is followed by regular employment;

(iv) There is no interruption in the two or more spells of service or the interruptions fall within condonable limits; and such service is a whole time employment and not part time or portion of day.”

From the perusal of aforesaid rule, it is ample clear that in case work charge employees fulfill three requisite conditions, firstly such service shall be followed by regular employment, secondly, there is no interruption in the two or more length of service or the interruptions fall within the limits or lastly service of the petitioner is whole time employment and not part-time or portions of day. It is an admitted fact that services of the petitioner was appointed as regular to the post of work made on 02.08.1990 i.e. immediately next day in continuation of work charge service which was from 07.12.1986 as such the first condition stands fulfilled.

Respondents have failed to show any kind of interruption in two or more spells of service of the petitioner or to show any interruption which do not fall within the condonable limits. As per record, it is admitted that the petitioner rendered his daily wage service w.e.f. 07.12.1979 to 07.12.1986

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

CWP-5218-2023

-5-

and thereafter on work charge basis w.e.f. 07.12.1986 to 20.07.1990, as such there is no break in service, condition No.2 stands fulfilled. Since the petitioner was working on daily wage service and secondly work charge basis and condition no.3 is also stand fulfilled as he was in a whole time employment and not in a part time employment, he is discharging his duties.

In light of the above, there is no reason to claim of the petitioner who has been continuously and the complainant approach the respondent authorities as is evident from and regular the writ petition filed in CWP-17188-2018 titled as “Zile Singh Vs. State of Haryana & Others in which it was recorded that legal notice dated 13.05.2018 also served upon the respondent but it has not been decided in a whatever way declining the claim for the first time the impugned order came to be passed only on 03.08.2018.

In light of the above, present petition stands allowed and arrears if any, to which the petitioner is entitled would be released within a period of one month from the date of receipt of certified copy alongwith interest @ 6% per annum from the date it became due till the date of its realisation.

Present petition in the above said terms, stands allowed.

(SANDEEP MOUDGIL)
JUDGE

28.11.2023

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Whether speaking/reasoned Yes/No
Whether reportable Yes/No