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2023:PHHC:104983

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-7108-2021

DECIDED ON: 6th JULY, 2023

RADHEY SHAM SHARMA

PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Attar Singh Kaushik, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Shashi Kumar Yadav, Advocate and
Mr. Anil Yadav, Advocate
for respondents No.2 to 4 and 6.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been invoked seeking a writ of *Certiorari* for quashing of the impugned order dated 23.01.2020 (Annexure P-3) with further prayer for issuance of a writ in the nature of *Mandamus* to direct the respondents to grant pension and other pensionary benefits w.e.f. 31.03.2003 from the date of retirement of the petitioner on deposit of EPF with interest from the date of receipt of the amount.

2. It is not disputed that the petitioner initially joined the PWD Electricity Branch Department, Government of Punjab on 01.11.1962 as T-

Mate on work charge basis. After his services were transferred to the Haryana State Electricity Board (HSEB), he retired w.e.f. 31.03.2003, after serving more than about 38 years. The petitioner has thus more than the 'qualifying service' required for grant of pension and other retiral dues to his credit.

3. There is no denial to the fact that at the time when the petitioner joined the service or even while he was in service, he was entitled to the EPF scheme as the 'pension scheme' came to be introduced later on. The respondents have nowhere averred that the petitioner was given any option to switch over to the pension scheme from EPF/GPF scheme. That being so, the petitioner is also entitled to the benefit of various decision rendered by this Court from time to time including dated 18.08.2004 passed in CWP No. 15434-1997 titled **Ravi Dutt Mehta vs. State of Haryana and others.**

4. The writ petition is, accordingly allowed and with a direction to the respondents to grant pensionary benefits/pension to the petitioner w.e.f. 31.03.2003 along-with other retiral dues within a period of three months, from the date he deposits the entire amount of EPF, along-with interest @ 9% per annum. The amount required to be deposited by the petitioner along-with interest to him within a period of one month from the date of receipt of certified copy of the order.

5. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

6th JULY, 2023

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|---------------------------------|----------|
| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |