

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21226-2016 (O&M)

Decided on 22.11.2023

Ved Parkash

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajat Sharma, Advocate
Mr. SK Sharma, Advocate for the petitioner

Mr. SS Mann, Addl. AG Haryana

Mr. Himanshu Arora, Advocate for respondents No.2 to 5

Sandeep Moudgil, J.

The petitioner has filed the instant writ petition under Article 226 of the Constitution seeking to quash the impugned order dated 14.06.2016 (Annexure P9) passed by respondent No.5 whereby claim of the petitioner for counting of work charge service for pension has been declined with a further direction to release the second ACP arrears.

Learned counsel for the petitioner submitted that the petitioner joined the services of the erstwhile HSEB on 01.03.1980 on work charge basis and his services were regularized on 15.10.1985 and thereafter he was granted second ACP vide SE (OP) Circle Jhajjar on 30.06.2007 and was retired from service w.e.f. 31.03.2012. It is further averred that the petitioner was not aware of the scheme dated 17.03.2010 regarding counting of work charge service towards pension and when he came to know, he approached the authorities claim such benefits and even served legal notice in this regard but to no avail.

It is argued that the action of the respondents in rejecting the claim of the petitioner regarding counting of work charge service on the ground that he never exercised option for counting his work charge service for pension, relying upon some subsequent instructions dated 18.04.2014, is contrary to the main scheme dated 17.03.2010 adopted by the respondents on 21.01.2011 which provides for no such option and rather the department is bound to count that service if it falls within the purview of said scheme and further respondent No. 5 has no authority or power to reject the same without referring the matter to the higher authorities.

Written statement has been filed by the respondents No.2 to 5 wherein it has been averred that the scheme of counting of services was first introduced vide erstwhile HSEB instruction dated 06.08.1993 and 09.08.1994 as to opt whether he or she intends to count the period of work charge services rendered by him towards pensionary benefits or intends to continue to be a member of EPF with some conditions to submit his option within one month from the date of issue of said instructions of UHBVNL. Further Board of Directors accorded the approval for counting of work charge service towards pension in view of instructions dated 26.04.2011. Further in terms of the judgment of this Court rendered in CWP-19123-2010 decided on 27.04.2011, one more chance was allowed to such officials as well as pensioners to submit their options which was extended upto 30.06.2014 and thereafter closed. He vehemently argued that the petitioner never approached the respondents for counting of his service nor he filled up any form.

Heard learned counsel for the parties and gone through the record.

At the outset, learned counsel for the petitioner relied upon the judgment passed by this Court in CWP-7090-2017 (Sant Ram vs. State of Haryana & Ors.) decided on 25.07.2022 to submit that the instant petition is squarely covered by the above said judgment. This fact is not disputed by learned counsel for the respondents No.2 to 5 and as such, learned counsel for the parties are *ad idem* that the present writ petition can be disposed of in terms of the order passed in Sant Ram's case (supra).

Accordingly, this writ petition is allowed and the order dated 14.06.2016 (Annexure P9) passed by respondent No.5 whereby claim of the petitioner for counting of work charge service for pension has been declined, is hereby quashed. The respondents are directed to compute the pensionary benefits of the petitioner as admissible to him under the rules governing the service, according to which the qualifying service also include the daily wage service rendered by an employee prior to the regularization. Let the pensionary benefits of the petitioner be calculated by the respondents by taking into account the daily wage service rendered by him as qualifying service and the benefit calculated be released to the petitioner, along with interest @ 6% p.a., within a period of two months from the receipt of the copy of this order.

The present writ petition is allowed in above terms.

29.11.2023

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No