

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

LPA-1215-2016

Date of Decision: 03.10.2023

Partap Singh

....Appellant

Versus

Excise and Taxation Commissioner, Haryana, Panchkula and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Ashok Gupta, Advocate
for the appellant.

Mr. Anant Kataria, Deputy Advocate General, Haryana.

Anupinder Singh Grewal, J. (Oral)

The appellant has challenged the order of the Single Bench whereby his petition for counting the period from 1990-94 for the purpose of pension has been dismissed.

Learned counsel for the appellant submits that as the petitioner had worked as Palledar w.e.f. June 1990 the period thereafter till 1994 ought to have been counted for the purpose of computing his pension.

Heard. The appellant is stated to have joined as a Palledar in the Department of Excise and Taxation on 20.06.1990. He had continued to serve till April 1994 whereon his services were terminated on the abolition of the post. The appellant has challenged his termination by preferring CWP-2720-1995 titled as “Partap Singh Versus The State of Haryana and others”, which

was disposed of on 10.08.1995 in terms of an order passed by the Court in CWP-2718-1995 titled as “Dharambir Versus State of Haryana and others”. The operative part of the order passed in CWP-2718-1995 is reproduced hereunder:-

“There is no dispute that the petitioner may not have any legal enforceable right for an alternate service on the post being abolished. We are of the considered view that a welfare democratic state cannot absolve itself of its duty to provide employment not only to the persons who have been rendered surplus on abolition of posts but to unemployed persons too. It is not to generate unemployment. It is one of the pious duties of the State to generate employment in order to win the faith of the people in democracy. Even otherwise in the industrial law a retrenched employee has a prior right to be reconsidered for re-employment as and when the vacancy falls vacant which in our considered view is quite equitable and it meets the present extending thinking of human rights in the democratic country. We have no doubt that the State would come up to the expectations of its citizens in order to discharge its constitutional duty. As and when a vacancy arises subject to the eligibility conditions of the petitioner's they shall have a preferential claim for post which shall be offered, if eligible for the same.

With the above observations, the writ petition disposed of.”

In pursuance to the observations of the Court in the case of Dharambir (supra), the appellant is stated to have been appointed as Taxation Peon on 25.04.1997 on the availability of a vacancy. He had joined as such without any demur and did not raise any claim for counting the period from

1990 to 1994 for the service benefits. After his retirement in 2015, the appellant had raised a claim for counting this period towards his pensionary benefits. The period from 1990 to 1994 which the appellant is claiming as period of his service, was the period prior to the termination of the services of the appellant. His termination had attained finality. He was appointed later as a fresh entrant in service. Therefore, the period from 1990 to 1994 cannot be counted towards pensionary benefits.

We, therefore do not find any manifest illegality in the impugned judgment.

Consequently, the appeal stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

03.10.2023
Varinder Prashad

(LALIT BATRA)
JUDGE

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