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

CWP-3363-2019
Date of decision: 29.02.2024

Swaran Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. H.S. Saini, Advocate for the petitioner.
Ms. Neha Sonawane, DAG, Punjab.
Mr. Pranav Chadha, Advocate for respondent No.4.
Mr. Rishabh Gupta, Advocate for respondent No.5.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing the order dated 19.12.2018 (Annexure P-13) passed by respondent No.3 whereby the claim of the petitioner for counting his past service w.e.f. 02.06.1972 to 24.01.1978 rendered under respondent No.4 in Beas Sutlej Link Project (BSL Project) and also w.e.f. 07.02.1981 to 30.06.1985 rendered by him under respondent No.5 i.e. Anandpur Sahib Hydel Project as qualifying service towards pensionary benefits, has been rejected. Further prayer has been made in the present writ petition for issuance of a writ in

the nature of mandamus directing the respondents to count the past service of the petitioner w.e.f. 02.06.1972 to 24.01.1978 rendered under respondent No.4 in Beas Sutlej Link Project (BSL Project) and also w.e.f. 07.02.1981 to 30.06.1985 rendered by him under respondent No.5 i.e. Anandpur Sahib Hydel Project as qualifying service for the purpose of pensionary benefits in view of instructions dated 31.03.1982 (Annexure P-2), 20.05.1982 (Annexure P-3) and 07.02.1986 (Annexure P-4).

2. Learned counsel for the petitioner has submitted that the petitioner was initially appointed as Carpenter Grade-II in the Beas Sutlej Link Project (BSL Project) on 02.06.1972 on work charge basis where he worked up to 24.01.1978 and due to reduction in strength, he was discharged from the said project and thereafter, he was re-appointed again on the rolls and strength of Irrigation Department, Punjab in the Anandpur Sahib Hydel Project on 07.02.1981 as Carpenter Grade-II on work charge basis and he worked as such upto 30.06.1985 without any break and was discharged/retrenched from service on completion of the project. Copies of the discharge certificates have been annexed as Annexure P-1 (Colly) with the paper book. It is further submitted that in the year 1985, respondent no.1 started construction and commissioning work of Ranjit Sagar Dam Project and as per the decision taken by the Govt. of Punjab, respondent No.1 called those employees for employment/appointment on work charge basis again, who had already worked with the department and were having rich experience in construction and execution of such a large project and were retrenched from service by the respondent department from its earlier project. Accordingly, the petitioner was reappointed on work charge basis

on 15.04.1988 in the said project which was also established and running under the Irrigation Department, Punjab and the earlier service rendered by the petitioner was also under the same Department i.e., Irrigation Department. It is contended that the petitioner retired on 30.04.2008 after attaining the age of superannuation but the period of service which had been rendered by the petitioner, of 10 years as work charge service under the Irrigation Department, Punjab was not counted for the purpose of granting pensionary benefits. It is further pointed out that the petitioner was regularized on 13.03.1996. It is argued that as per the impugned order (Annexure P-13), although, the petitioner has been granted retrenchment increments for the purpose of pay protection but the same cannot be taken as granting benefits to the petitioner for counting the said service on work charge basis as qualifying service for the pensionary benefits. It is further submitted that the case of the petitioner is squarely covered by the judgment of a Co-ordinate Bench of this Court passed in case titled as **“Bagga Ram Vs. State of Punjab and others”**, passed in **CWP-6169-2017, decided on 11.09.2023**. It is further submitted that even in para 6 of the judgment passed in ***Bagga Ram’s case*** (Supra), an objection was raised by learned State Counsel to the effect that since the petitioner therein had been extended the benefit of one increment on account of his retrenchment in the first spell of service, he could not stake his claim for getting other benefits in respect of the service rendered by him prior to retrenchment which was on work charge basis. It is argued that after considering the said objection, the writ petition was allowed. Relevant portion of the said order is reproduced herein below:-

“1 to 5 xxx xxx

6. On the other hand, the learned State counsel has submitted that the petitioner has no absolute right for consideration of his entire service as qualifying service, particularly when there is a break in between and which is prior to the petitioner having been regularized. It has further been submitted that in any case, since the petitioner had been extended the benefit of one increment on account of his retrenchment in the first spell of service, he could not stake his claim for getting other benefits in respect of the service rendered by him prior to retrenchment, which, in any case, was on work-charge basis.

7 to 14. xxx xxx

15. In the present case, the break of four months between the two spells of services cannot be attributed to any fault on part of the petitioner and came to be there on account of the petitioner having been retrenched as the 'Anandpur Sahib Hydel Project' was completed and the work at the site was reduced. Having regard to provisions of Rules 3.17-A and Rule 4.23 of the Punjab Civil Services Rules, Volume-2 and bearing in mind the ratio of above referred judgments, this Court is of the opinion that the petitioner cannot be deprived of the benefits of the first spell of service of 3 years and 8 months towards qualifying service. As such, the petition is hereby accepted and it is ordered that the period of 3 years and 8 months i.e. w.e.f. 1.11.1981 to 30.6.1985 which the petitioner has rendered on work-charge basis, before being retrenched, be also treated as qualifying service for the period of working out pension and the period of about 4 months between the two spells of service be treated as a notional break.

16. The respondents are directed to do the needful for revising the pension of the petitioner accordingly. The financial benefits, as may be flowing from such revision including arrears, be paid to the petitioner within 4 months from today alongwith interest @ 5%. However, in case the needful is not

done within 4 months, the arrears shall be paid to the petitioner with interest @ 10% instead of 5%.

17. The petition stands accepted accordingly.”

3. Learned State counsel has not been able to dispute the fact that the case of the petitioner is squarely covered by the judgment in **Bagga Ram's** case (supra).

4. Keeping in view the above-said facts and circumstances and the fact that the case of the petitioner being covered by the judgment in **Bagga Ram's** case (supra), is not disputed, the present writ petition is allowed in the same terms as CWP-6169-2017 titled as “**Bagga Ram Vs. State of Punjab and others**”, *decided on 11.09.2023*.

5. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

29.02.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No