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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(332)

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Reserved on 09.01.2024

Date of decision:- 02.02.2024

Satnam Singh

... Appellant

Versus

Punjab State and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. H.S.Saggu, Advocate
for the appellant.

Ms. Anju Sharma Kaushik, DAG, Punjab
for the respondents.

SUVIR SEHGAL, J.

1. Plaintiff-appellant is before this Court in the instant second appeal seeking modification of the judgments and decrees passed by both the Courts below.

2. Satnam Singh, plaintiff-appellant, filed a suit averring that initially he was engaged as a Work Charged Project Sectional Officer in the Provincial Sub Division , PWD (B&R), Mukerian, District Hoshiarpur from August, 1968 to 30.06.1970 before joining regular appointment with the same department. He retired on 30.11.2000 from the post of J.E./EAE(Extra Assistant Engineer) with an unblemished service record. He claimed that he has been denied the benefit of the work charged service rendered by him

and it has not been counted towards his pensionary benefits. He pleaded

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that there was a delay in the release of commutation of pension, leave encashment, gratuity and other retiral benefits. Payment of missing credit of GPF for some months was pending. He filed a suit for declaration to the effect that the entire service from August, 1968 till his superannuation should be counted towards pension and other service benefits along with consequential benefits and interest on the delayed payment. Upon notice, suit was contested by defendants No.1 to 4 and by defendant No.5 by filing separate written statements. In their response, respondents No.1 to 4 submitted that the plaintiff-appellant was appointed as a Project Sectional Officer (Work Charge) vide letter dated 13.08.1968 and served from 21.08.1968 to 30.06.1970. A stand has been taken that he was given fresh appointment as Sectional Officer vide letter dated 25.06.1970. His pensionary benefits were calculated w.e.f. 01.07.1970 and submitted to the Accountant General (A&E), Punjab on 05.01.2001. It was admitted that leave encashment was paid to him on 25.01.2001, pension was released in March, 2001 due to delay on account of non-conferring of DDO powers on the competent officer. It was further stated that the GPF form was furnished by the plaintiff on 27.01.2001 and payment was made to him on 14.05.2001 and the missing credits of GPF, which work out to Rs.4835/- will be paid to him. In its separate written statement, respondent No.5, besides taking various objections, submitted that after the pension case was received on 05.01.2001, PPO Certificate and commutation order was issued on 22.02.2001 and there was no delay on its part.

3. After the framing of the issues and leading of evidence by the parties, Trial Court by judgment dated 15.05.2003, partly decreed the suit of the plaintiff-appellant with costs and directed the defendants to pay simple interest @12% P.A. on the delayed payment of pensionary benefits. The

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appellant-plaintiff as well as the defendants-State filed separate appeals challenging the judgment and decree of the Trial Court. Both the appeals were dismissed by the First Appellate Court by judgment dated 23.01.2004 resulting in the institution of the instant appeal by the plaintiff-appellant.

4. The plaintiff-appellant has framed the following substantial question of law in the grounds of appeal.

“Whether the period of work charged employment can be reckoned for purpose of calculation of retiral benefit?”

5. I have heard counsel for the parties and considered their respective submissions.

6. The proposition of law has been emphatically settled. Striking down Rule 3.17 (ii) of Punjab Civil Services Rules Vol.II, a Full Bench of this Court in ***Kesar Chand Versus State of Punjab 1988 (2) PLR 223*** has held that it is illogical that the period of service spent by an employee in a work-charged establishment before his regularisation is not being taken into consideration for determining his qualifying service. The classification being sought to be made among Government servants, who are eligible for pension and those who started as work-charged employees and their services were regularised subsequently, and others, is not based on any intelligible criteria and, therefore, is not sustainable. After the services of a work-charged employee have been regularised, he is a public servant like any other servant. To deprive him of pension is not only unjust and inequitable, but is hit by the vice of arbitrariness.

7. In ***Prem Singh Versus State of Uttar Pradesh and others (2019) 10 SCC 516***, Hon’ble Supreme Court has held that services rendered even prior to regularisation in the capacity of work-charged employees, contingency paid fund employees or non- pensionable establishment shall

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be counted towards the qualifying service, even if such service is not preceded by temporary or regular appointment in a pensionable establishment.

8. In view of the clear enunciation of law, the substantial question of law is answered in favour of the plaintiff-appellant and against the defendants-State.

9. As a result of the above discussion, plaintiff-appellant is held entitled to count the work-charged service rendered by him prior to 01.07.1970 as qualifying service for the purposes of pension. Resultantly, findings to the contrary are set aside and the judgments and decrees of the Courts below are modified to this extent. Arrears of pension shall be confined to a period of three years prior to the date of filing of the suit and shall be paid to the plaintiff-appellant along with interest @ 6% per annum from the due date till disbursal.

10. Appeal is disposed of.

11. Pending application(s), if any, is disposed of.

(SUVIR SEHGAL)
JUDGE

02.02.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No