

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-12956-2019
Date of decision : 09.02.2024

Tara 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.

Mr.Kunal Muthreja, AAG, Punjab.

Mr.Alok Mittal, Advocate and
Mr.Sylvester, Advocate
for respondent no.4.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the impugned order dated 14.06.2010 (Annexure P-2) passed by the respondents to the extent that recovery of Rs.1,46,370/- has been made from the retiral benefits/DCRG of the petitioner. A further prayer has been made for issuance of a writ in the nature of mandamus directing the respondents to count the past service of the petitioner w.e.f. 01.03.1981 to 30.06.1985 rendered under respondent no.4-Anandpur Sahib Hydel Project as qualifying service for the purpose of pensionary benefits in view of instructions dated 31.03.1982 (Annexure P-5), 20.05.1982 (Annexure P-6) and 07.02.1986 (Annexure P-7).

2. Learned counsel for the petitioner has submitted that the petitioner was initially appointed as Carpenter Grade-II in the Anandpur Sahib Hydel Project on 01.03.1981 on work charge basis where he worked up to 30.06.1985 and was thereafter discharged /retrenched from service on completion of the project. 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 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. It is stated that the petitioner was accordingly reappointed on 14.04.1988 and continued till the date of his retirement. It is further stated that however the period of service of 4 years and 3 months rendered by the petitioner on work charge basis was not counted by the respondent authorities as qualifying service for the purpose of retiral 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***. The relevant portion of the said order is reproduced herein below: -

“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.”

Learned counsel for the petitioner has submitted that as far as the prayer with respect to recovery of Rs.1,46,370/- is there, that has been rendered infructuous and the said amount has been returned by the respondents.

3. Learned State counsel has not disputed 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.

(VIKAS BAHL)
JUDGE

February 09, 2024
Davinder Kumar

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