



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

107

CWP-24146-2014 (O&M)
Date of Decision : 08.05.2024

MUNISH KUMAR

... PETITIONER

Versus

UNION OF INDIA AND ORS.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Manish Prabhakar, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Sr. Panel Counsel
for respondent No.1-UOI.

Mr. Salil Sabhlok, Advocate
for respondents No.2 and 3.

Mr. V.Ram Swaroop, Advocate
for respondent No.4.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent No.2 to count his service period from 02.07.2002 to 30.01.2004 in terms of recommendations dated 06.02.2004 (Annexure P-1).

2. This Court on 26.11.2014 passed the following order :

“The petitioner was appointed by respondent No.2 on temporary/ad hoc basis on 02.07.2002. Thereafter, by virtue of office orders issued by respondent No.2 from time to time



he continued his service till 31.02.2004. Thereafter, the petitioner secured regular appointment with respondent No.2 on 09.02.2004 and he continued to serve there till 28.11.2011. He joined the service of respondent No. 4 as UDC on 30.11.2011.

It is stated that at the time of his appointment on 09.02.2004, the Selection Committee had recommended that previous service on contract basis may be considered as regular service and his pay be fixed accordingly.

It is averred that the petitioner was not aware of the aforesaid recommendation of the Selection Committee. He got to know of the aforesaid recommendation only after he had joined respondent No.4 and thereafter, he repeatedly made requests to respondent No.2 for granting him the benefits in terms of the recommendation of the Selection Committee. He applied for extension of his lien with respondent No.2 till the decision on his representation.

Learned counsel for the petitioner states that as on date, representation of the petitioner has not been decided and his lien with respondent No. 2 is to end on 27.11.2014.

Learned counsel contends that if his lien is terminated before a decision on his representation regarding giving benefit of his previous service is taken, he would be gravely prejudiced, inasmuch as if the representation is decided in his favour and he is given the benefit of his contractual/ adhoc service from 2002 to 2004, he would be entitled to pensionary benefits.

His limited prayer in this petition is that a direction be issued to the respondents to take decision on his representation with regard to counting of previous service on contract basis as regular service expeditiously and till the decision is taken, his lien be not terminated.

Notice of motion for 06.01.2015.



Sh. Naveen Mahajan, Advocate accepts notice on behalf of the respondents-UOI. Learned counsel for the petitioner undertakes to supply two copies of the paper book to Mr. Mahajan, Advocate.

Meanwhile, the lien of the petitioner with respondents No. 2 and 4 be not terminated.”

3. Mr. Manish Prabhakar, Advocate submits that the petitioner was appointed as regular employee against advertisement dated 23.10.2003. The Ministry of Personnel, Public Grievances and Pensions has issued office memorandum dated 03.03.2023 (Annexure P-12) wherein it has been noticed that one time option to Central Government employees who were declared successful for recruitment in the results declared on or before 31.12.2003 against vacancies which occurred before 01.01.2004 was given to opt for Central Civil Services (Pension) Rules, 1972 (for short ‘1972 Rules’). The Government has decided that in all cases where Central Government Civil employee has been appointed against a post or vacancy which was advertised/notified for recruitment/appointment prior to the date of notification for National Pension System i.e. 22.12.2003 would be covered under Old Pension Scheme though they have joined service on or after 01.01.2004. They can file option latest by 31.08.2023. The petitioner has filed option in terms of office memorandum dated 03.03.2023 on 11.08.2023. The respondent in reply to application under RTI Act has confirmed that employees of ICSSR are covered by 1972 Rules.

4. Faced with this, Mr. Salil Sabhlok, Advocate for respondents No.2 and 3 submits that the competent authority would re-look into claim of the petitioner and pass an appropriate order within two months from today.



- 5. Learned counsel for the petitioner agrees to aforesaid arrangement.
- 6. In the wake of statements of both sides, the present petition stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

08.05.2024
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>