

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

(220-1)

CWP-5742-2016

Date of decision: - 30.01.2024

Gurmit 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. Kamal Sharma, Advocate
for Mr. Mukul Aggarwal, Advocate, for respondent No.4.

VIKAS BAHL, J. (ORAL)

1. Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to count the past service of the petitioner w.e.f. 01.11.1981 to 15.07.1985 rendered by him under respondent No.4 i.e. Anandpur Sahib Hydel Project as qualifying service for the purpose of pensionary benefits along with interest.

2. Learned counsel for the petitioner has submitted that the petitioner was initially appointed on the rolls and strength of Irrigation Department, Punjab in the Anandpur Sahib Hydel Project on 01.12.1981 as Demag Operator on work charge basis and he worked as such up to 15.07.1985 without any break and was discharged from service on completion of the project. It is further submitted that the petitioner was reappointed on work charge basis as Demag Operator in the establishment

of Ranjit Sagar Dam Project on 08.10.1985, which was also established and run under the Irrigation Department and had retired on 31.12.2009. It is stated that however the period of service of 4 years and 8 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.”*

3. On 11.01.2024, when the case came up for hearing, this Court was pleased to pass the following order: -

“Learned counsel for the petitioners has submitted that the present case is covered by the judgment of a coordinate Bench of this Court in CWP-6169-2017 decided on 11.09.2023 and has further submitted that the said judgment has been implemented by learned State counsel.

Learned State counsel prays for an adjournment to get instructions in the matter.

Adjourned to 30.01.2024.

To be taken up at 01:45 PM.

A photocopy of this order be placed on the file of another connected case.

(VIKAS BAHL)
JUDGE

11.01.2024”

4. In pursuance of the above-said order, learned State counsel has submitted that the State is not disputing the fact that the case of the petitioner is squarely covered by the judgment in **Bagga Ram's case (supra)**.

5. 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

January 30, 2024
naresh.k

Whether reasoned/speaking?
Whether reportable?

Yes
Yes