



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

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CWP-909-2013 (O&M)

Date of decision: 18.11.2024

Shiv Kumar and another

..Petitioners

Versus

BBMB and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. S.S. Rana, Advocate for the petitioners.

Mr. Karan Nehra, Advocate for the respondents.

AMAN CHAUDHARY, J. (Oral)**CM-16541-CWP-2024**

Prayer made in the present petition is for disposing of the same in terms of LPA No.1996 of 2016.

On the oral request made by learned counsel for the petitioner, the main case is taken on board today itself.

Disposed of.

Main Case

1. Prayer made in the present petition is for direction to respondents to extend the benefit of the judgment passed by the Hon'ble Supreme Court in PSEB vs. Narata Singh, 2010(2) SCT page 732 and count the work charge service period rendered by the petitioners towards qualifying service for the purpose of grant of pension and its benefits.

2. On 15.05.2019, the case was admitted with liberty to file application after the decision of LPA-1996-2016, titled as **Balbir Singh (since deceased) thr. his LRs vs. BBMB and others**, which stands allowed alongwith a batch of Letter Patent Appeals, vide judgment dated 18.09.2024, relevant paras thereof read thus:-

“15. Reliance by BBMB on the judgment of Hon'ble the Supreme Court in the case of **Jaswant Singh's** case (supra) was also found to be misplaced. Argument in this regard as raised by the respondent - Board and the finding thereon read as under:-



"Learned counsel for the respondent-Board has argued that instructions dated 4.7.1991 would not apply to the case in hand as the same would apply only to Ex-Central Government Employees joining the Beas Construction Board. He further stated that once the petitioner had accepted the retrenchment compensation from the Beas Construction Board, he was not entitled to have his service in the Beas Construction Board counted towards qualifying service for the grant of pension from the respondent-Board. To support his proposition, learned counsel relies upon a Division Bench judgment of this Court rendered in *Sukhdev Raj v. Bhakra Beas Management Board*; 1994(4) RSJ 352 and the judgment of the Apex Court rendered in *Jaswant Singh and others v. Union of India and others*; AIR 1980 Supreme Court 115.

The submissions made on behalf of the learned counsel for the respondent-Board are to be considered only to be rejected. The argument that instructions dated 4.7.1991 would only apply in the case of Ex-Central Government Employee joining the Beas Construction Board is fallacious. A perusal of the instructions show that the benefit under the instructions is to be given to employees of the Beas Construction Board who join the respondent-Board. Viewed from another angle, the employees of the Beas Construction Board have been held to be employees of the Central Government in *Jaswant Singh's case* (supra). That being so, there is no reason not to include the service of the petitioner rendered by him in the Beas Construction Board towards qualifying service for benefit of pension. Irrespective of the above, once the service rendered in the Beas Constructions Board is to be counted for Ex-Central Government Employees, there is no reason in law or in fact not to count such service for Ex-employees of the Government of Punjab as such action would be in gross violation of Article 14 of the Constitution of India being arbitrary and discriminatory. Thus, viewed from any angle, the argument sought to be raised by the learned counsel for the respondent-Board does not warrant acceptance.

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Reliance of the respondent-Board on *Jaswant Singh's case* (supra) is equally misplaced. In that case, the primary issue before the Apex Court was whether on the cessation of the Beas Construction Board its employees would automatically be absorbed in the respondent-Board which had taken over the Beas Construction Board. The answer to this question was negated by the Apex Court on several counts which we may go into as the issue in the present case is entirely different."

16. We further take note of the fact that this issue was also agitated before the Single Bench in CWP-3424-2011 titled **'Tirath Singh through LRs versus General Manager and**



Chairman Bharka Beas Management Board, Chandigarh and another'. Said writ petition whereby the employee had sought counting of his work-charge service with the erstwhile PSEB and Beas Construction Board for the purpose of pension before being regularized as an employee with the BBMB was allowed on 24.07.2013. LPA-1973-2013 filed by BBMB against the LRs of Tirath Singh namely Joginder Kaur and others, was dismissed on 25.11.2013. Similar contentions as raised before us were duly dealt with by the Division Bench vide its order dated 25.11.2013. Arguments raised on behalf of BBMB on the basis of **Jaswant Singh's** case (supra) and '**Punjab State Electricity Board and others versus Jagjiwan Ram and others**', 2009(3) SCC 611 were duly negated. SLP (Civil) No. 12056 of 2014, filed by BBMB challenging said decision dated 25.11.2013 was withdrawn with liberty to file a review application on the ground that BBMB is not the successor of Beas Construction Board. Review application No. RA-LP-34-2015 in LPA-1973-2013 was dismissed on 08.05.2015 concluding as under:-

"(4) We find that though such a plea was raised before us in the LPA but the same was rejected after referring to Section 79(1) of the Punjab Reorganisation Act, 1966 read with para-7 of the judgement of the Hon'ble Supreme Court in **Jaswant Singh & Ors. vs. Union of India & Ors.** 1979(4) SCC 440.

(5) We have heard learned counsel for the review-applicant. No meaningful argument has been advanced except to point out that a co- ordinate Bench kept open the question with regard to BBMB being the successor of Beas Construction Board or that learned Single Judge before whom the relevant decisions were not cited has rejected such claim.

(6) It is not in dispute that the deceased employee continuously served firstly in PSEB and then in Beas Construction Board and thereafter in Bhakra Beas Management Board. He continued to perform same duties except for the break caused during the period he was declared surplus.

(7) No case to recall/review the order dated 25.11.2013 is made out."

18. Hon'ble the Supreme Court in the case of **Prem Singh versus State of Uttar Pradesh and others**, 2019(4) SCT, while considering the validity of Rule 3(8) of UP Retirement Benefit Rules, 1961 and Regulations 370 of Civil Services Regulation of UP which were pari materia to the Rules as in question in **Kesar Singh's** case (supra) affirmed its decision in the case of **Narata Singh**. Reliance by the State of UP on the earlier decision of the Hon'ble Supreme Court in **Jaswant Singh's** (supra) was negated while holding that the



question involved in the case of Jaswant Singh was different.

19. This Court during the course of hearing was informed that all the above said decisions have attained finality and the benefit in question has been afforded to the employees therein by the respondent - Board.

20. It is to be noted at this stage that though it is mentioned in the written statements filed on behalf of BBMB before the writ Court that the employee had voluntarily resigned from service, it is undeniable that their services were indeed retrenched. In the case of Balbir Singh the Labour Court award dated 04.09.2008 itself is testimony to the same. Moreover, in all fairness, learned counsel for BBMB did not deny that services of the employees were indeed retrenched from the Beas Satluj Link project/Beas Construction Board/Bhakra Dam Project. The question of right of such an employee retrenched from the Boards which were admittedly the predecessors of BBMB and the right of such employees' entitlement for counting of their work-charge service with the predecessor Boards has been considered and decided in their favour in the various judgments as discussed in the foregoing paras.

21. In the given factual matrix, learned Single Judge while deciding CWP-57-2012 vide order dated 17.08.2016, clearly erred in holding that the matter at hand is squarely covered by the judgment of Hon'ble the Supreme Court in Jaswant Singh's case (supra). There is also no merit in the argument that there has been delay on the part of employees in approaching this Court. Learned Single Bench while deciding the writ petitions vide orders dated 17.08.2016, 03.02.2020 and thereafter 08.08.2023 has clearly erred while rendering the said decisions. Keeping in view the factual matrix as above, decisions dated 17.08.2016, 03.02.2020 and 08.08.2023 are not sustainable.

22. No other argument has been addressed.

23. Keeping in view the facts and circumstances as above, all the appeals are allowed, impugned decisions dated 17.08.2016, 03.02.2020 and 08.08.2023 are set aside. Consequently, writ petitions filed by appellants/writ petitioners are allowed to the extent that respondent Board is directed to count service of appellants rendered by them under the Government of Punjab with Bhakra Dam Project, Beas Construction Board, Beas Satluj Link Board etc. for calculating qualifying service towards pension. Arrears of pension as payable to the appellants be released to them within a period of three months from receipt of certified copy of this decision. No interest thereon is liable to be released as the matter has been adjudicated upon and decided now. However, in case, amount in question is not released within three months from receipt of certified copy of this order, appellants shall be entitled to interest at the



rate of 6% per annum from the date of order till actual deposit of the amount.”

3. Learned counsel for the respondents despite his best efforts has not been able to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.
4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Balbir Singh** (supra).

18.11.2024
Hemant

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No