

CWP-27782 of 2019

2024:PHHC:153439



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

CWP-27782 of 2019

Reserved on: 13.11.2024

Pronounced on: 20.11.2024

Narinder Singh

.....Petitioner

Versus

The Pepsu Road Transport Corporation and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Vikas Singh, Advocate, for the petitioner.

Mr. Anupam Singla, Advocate, and
Mr. Lalit Goyal, Advocate, for the respondents.

NAMIT KUMAR, J.

1. Instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking quashing of order dated 18.07.2019 (Annexure P-8), whereby pay of the petitioner has been refixed and reduced and for restraining the respondents from making any recovery.

2. Undisputed facts of the case are that the petitioner joined the services of the Pepsu Road Transport Corporation (hereinafter referred to as 'the Corporation') as driver on contract basis for two years w.e.f. 31.03.2001 to 30.03.2003. Thereafter, his services were terminated vide order dated 14.01.2002 on the allegation of causing damage to the crown wheel of the bus and having misbehaved with the service engineer. The petitioner invoked the arbitration clause of the contract agreement and challenged the order dated 14.01.2002.

Consequently, the designated arbitrator entered into the reference and



after examining the whole record, passed award dated 06.06.2002, vide which the order of termination dated 14.01.2002 was set aside and the petitioner was held not entitled for any wages for the period his contract remained terminated and further an amount of Rs.6370/- was ordered to be recovered from the petitioner for the loss caused by him to the respondent-Corporation. In pursuance to the said award, petitioner joined his duty on 18.06.2002 after depositing the amount of Rs.6370/-.

3. Some of the contractual employees of the Corporation had approached this Court by filing CWP No.8240 of 2008 – Dalbir Singh and others v. Pepsu Road Transport Corporation, Patiala through its Managing Director and another – for regularization of their services. The said writ petition was allowed by this Court, vide judgment dated 22.03.2010, and those contractual employees were ordered to be regularized on completion of 18 months' of their service. The respondent-Corporation also regularised the services of the petitioner vide order dated 11.03.2011 w.e.f. 01.10.2002 i.e. on completion of 18 months' service from the date of his initial appointment and thereafter vide order dated 23.07.2013 (Annexure P-4) his pay was refixed. Thereafter, petitioner was issued a show-cause notice dated 08.06.2018 (Annexure P-5) as to why the date of regularization be not changed from 01.10.2002 to 13.12.2003, by counting the period of 18 months from 13.06.2002. The petitioner submitted reply to the show-cause notice. Thereafter, another show-cause notice dated 27.05.2019

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01.10.2002 to 04.03.2003 by excluding the period, the petitioner remained out of service, and for recovery of excess amount paid to him. The petitioner submitted reply dated 18.06.2019 (Annexure P-7) to the said show-cause notice. Thereafter, vide order date 18.07.2019 (Annexure P-8), the date of regularization of the petitioner has been changed from 01.10.2002 to 04.03.2003 and excess payment made to him has been ordered to be recovered. The said order has been impugned in the present petition.

4. Written statement on behalf of the respondents has been filed wherein facts as stated above have not been disputed.

5. Learned counsel for the petitioner has submitted that the date of regularization of the petitioner has wrongly been changed from 01.10.2002 to 04.03.2003 by excluding the period from 14.01.2002 to 17.06.2002 and consequently, his pay has also been reduced which is illegal and arbitrary as the award passed by the arbitrator dated 06.06.2002 has wrongly been interpreted by the respondent-Corporation. He has submitted that once the order of termination of services of the petitioner dated 14.01.2002 has been set aside, the abovesaid period cannot be excluded from the service of the petitioner.

6. *Per contra*, learned counsel for the respondents has submitted that since the petitioner was working on contractual basis and he has been denied wages for the said period by the arbitrator, therefore, the said period has rightly been excluded from the service of the petitioner and consequently his date of regularization has been



7. I have heard learned counsel for the parties and perused the record.

8. Recovery from the petitioner in pursuance to impugned order dated 18.07.2019 (Annexure P-8) has been stayed by this Court vide order dated 26.09.2019. Before proceeding further, it is pertinent to give reference to award dated 06.06.2002, passed by the arbitrator, and the concluding para of the same reads as under: -

“After going through the documents placed on the file, it has been revealed that the General Manager, PRTC, Chandigarh depot revoked the agreement on the ground that the claimant caused loss to the Corporation to the tune of Rs.6370/- on account of causing damage to the crown wheel of the bus and misbehaviour with the Service Engineer. After examining the record it has been revealed that in the Job Card dated 2.12.2001 some defect of shaft nosing was recorded. I also agree with the plea of claimant that any mechanical defect can develop at any time but it was the duty of the driver to check the bus before proceeding on route that the bus was defect free. However, I take a lenient view and accept the claim application of the petitioner partly and set aside the office order No.1121 dated 14.1.2002. However, the petitioner shall not be entitled to any wages for the period his contract remained terminated. An amount of Rs.6370/- is ordered to be recovered from the claimant on account of loss caused to the Corporation by the negligent act of the claimant.”

9. Perusal of the above shows that the claim application of the petitioner has been partly accepted and termination order dated



remained out of service. In pursuance to the said award, petitioner was allowed to rejoin his duty on 18.06.2002. It is not the case of the respondents that after the passing of the award dated 06.06.2002, petitioner has been given fresh appointment. Once the termination of the petitioner has been set aside, the natural consequence is that the petitioner would be entitled for continuity of service and the period he remained out of service on account of wrongful termination, which has been set aside by the arbitrator, shall be counted for the purpose of regularization and pay fixation.

10. The findings given above find support from the judgment of this Court in ***Bhupinder Singh v. Pepsu Road Transport Corporation (PRTC) and others, 2023(3) PLR 409.***

11. Consequently, the present petition is allowed. Impugned order dated 18.07.2019 (Annexure P-8) is quashed and set aside and the respondents are directed to treat the date of regularization of the petitioner as 01.10.2002 instead of 04.03.2003 and refix his pay accordingly. Necessary exercise shall be carried out within a period of two months from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

20.11.2024
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No