



**CM-20051-CWP-2024 in/and
CWP-29667-2019 & connected case 2**

Mr. Amarpreet Singh Bains, learned Assistant Advocate General, Punjab, accepts notice on behalf of the respondent-State and Mr. Sarthak Gupta, Advocate, accepts notice on behalf of respondent No.3. They raise no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and on joint request of the learned counsel for the parties, the main writ petitions are taken up for hearing.

CWP-29667-2019 & CWP-8831-2021

1. By this common order, two writ petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts.

2. In the present writ petitions, the grievance being raised by the petitioner(s) is that the service which they had rendered with the Corporation prior to their joining of the State of Punjab, be treated as a qualifying service for computing the pensionary benefits.

3. Learned counsel for the petitioner(s) submits that the claim which has been raised by the petitioner(s) is squarely covered by the decision which have been rendered by the Coordinate Bench of this Court in ***CWP No.506 of 2008 titled as Ish Kumar Arya vs. State of Punjab and another, decided on 22.03.2010, CWP No.15065 of 2011 titled as Mohan Singh vs. State of Punjab and others, decided on 06.04.2015*** as well as by this Court in ***CWP No.2722 of 2013 titled as Yash Pal Singh Rana vs. The***



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State of Punjab and others, decided on 05.02.2019.

4. Learned counsel for the petitioner(s) submits that the service rendered with the Corporation, has been treated as a valid service to be treated as qualifying service for computing the pensionary benefits and while passing order in ***Yash Pal Singh Rana's case (supra)***, the earlier judgment as well as the Rules governing the service has been taken into account according to which, the service rendered in the Board, Corporation of the State of Punjab, is to be treated as a qualifying service.

5. Learned counsel for the respondents submits that though in ***Yash Pal Singh Rana's case (supra)***, the benefit of service rendered in Punjab Land Development and Reclamation Corporation Limited has been allowed but the difference between the present case and the case of ***Yash Pal Singh Rana's case (supra)***, is that the Corporation i.e. Punjab Land Development and Reclamation Corporation Limited was closed down after which the employee was absorbed whereas, here the petitioner(s) competed for the post with the Government of Punjab and got selected hence, the benefit being claimed by the petitioner(s) may not be admissible.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Once, the benefit of the service rendered in the Board, Corporation of the Government of Punjab has been treated to be computing as qualifying service, merely that the petitioner(s) joined the State of Punjab after due competition, will not take away their right for the service rendered in the Board and Corporation.



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8. The absorption of a retrenched employee cannot be treated as a different qua an employee, who is selected by due competition with the State of Punjab. Once, a service rendered in the Corporation has been treated as a valid service to be taken as a qualifying service, the differentiating fact being brought into operation to deny the benefit to the petitioner(s) of the judgment in *Yash Pal Singh Rana's case (supra)*, cannot be accepted.

9. Learned counsel for the respondents concedes the fact that after the petitioner(s) joined the Government of Punjab, their pay as being drawn in the Corporation was protected which fact clearly shows that benefit of service rendered by the petitioner in Board has been extended so as to protect the pay.

10. Once, the pay was protected by giving benefit of service in Board, taking out the same service rendered in the Corporation for qualifying service is arbitrary and illegal. A service taken into account for the grant of pay, cannot be ignored for the granted of pensionary benefits.

11. At this stage, learned counsel for the petitioner(s) submits that for the counting of the benefit of the service rendered in the Corporation, the Corporation or the petitioner(s) has to deposit the emoluments which the petitioner(s) got after leaving the Corporation along with the statutory interest.

12. Learned counsel for the petitioner(s) submits that the petitioner(s) are ready to deposit whatever amount the petitioner(s) have taken or became admissible to them along with 12 % interest with the

respondent-State and the benefit of the service rendered by the petitioner(s)



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in the Punjab Water Supply and Sewerage Board, be taken into account as a qualifying service for computing the pensionary benefits. Learned counsel for the petitioner(s) submits that let the respondents calculate the liability of the petitioner(s) along with interest and the same be deducted from the final arrears which becomes admissible after taking into account the service rendered by the petitioner(s) in the Corporation.

13. Learned counsel for the respondents submits that the computation to be deposited by the petitioner(s) will be done within a period of eight weeks of the receipt of copy of this order.

14. Learned counsel for the respondents submits that the deduction of the liability of the petitioner(s) will be done out of the arrears admissible upon recalculation of the benefits which the petitioner(s) will become entitled for by taking into account the service rendered in the Punjab Water Supply and Sewerage Board.

15. Let the order be complied with within a period of eight weeks from the date of receipt of copy of this order.

16. The present writ petitions are disposed of in above terms.

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

December 16, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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