



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

LPA No.2445 of 2024

Date of Decision: October 04 , 2024.

State of Punjab and others APPELLANT (s)

Versus

Om Parkash and others RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS.JUSTICE SUKHVINDER KAUR**

Present: Mr. R.S.Pandher, Sr. Deputy Advocate General
for the appellants.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 07.12.2023 passed by learned Single Bench whereby CWP No.27403 of 2013 filed by respondent-writ petitioner has been allowed.

2. Brief facts necessary for adjudication of the appeal are that, respondent-writ petitioner filed the abovesaid writ petition for a direction to the department to count previous service rendered by him with the Punjab State Civil Supplies Corporation (for short, 'PUNSUP') from 12.10.1978 for the purpose of pension. Writ-petitioner was working on a Class-IV post with PUNSUP after being appointed on regular basis vide order dated 12.10.1978 with his joining on

17.10.1978. Writ-petitioner applied for the post of Junior Auditor with the Department of Finance upon relevant advertisement being issued. Application was filed through proper channel and writ petitioner was selected while treating him as an in-service candidate. He joined on the post and submitted his resignation with PUNSUP while depositing one month's salary. He received the gratuity amount from PUNSUP. He was relieved to join his duties as Junior Auditor and writ-petitioner retired from the Finance Department on 13.04.2009.

3. Writ-petitioner's claim was contested by the State while submitting that instructions dated 25.04.2017 had been issued clarifying the earlier instructions to the effect that service of only those employees who are absorbed in government departments on account of winding-up of State autonomous bodies shall be taken in account for the purpose of counting the qualifying service for the purpose of pension. Reliance was also placed on Rule 3.12 of the Punjab Civil Service Rules, Vol.II to state that the qualifying service for pension would be confined to be that which was rendered with the government by an employee holding a permanent and substantive post of which salary is paid by the government.

4. Learned Single Bench while considering the factual matrix of the case and various judgments as are mentioned in paras 7 and 9 of impugned order 07.12.2023, concluded that service rendered by the writ petitioner with PUNSUP from October, 1978 had to be counted for the purpose of pension. Writ petition was, accordingly, allowed while clarifying that gratuity which the writ petitioner received for service rendered with PUNSUP shall be deposited by him/adjusted while calculating arrears of revised pensionary benefits. Aggrieved therefrom, present appeal has been filed by the appellants.

5. Learned counsel for the appellants states that reliance by learned Single Bench on the judgment of **Mohan Lal v. State of Punjab and others, 2015(3) SCT 683, State of Haryana and others v. Shadi Lal Malik in LPA-604-2013 decided on 14.10.2014 or Gurmail Singh and others v. State of Punjab and others 1992(7) SLR 744**, is not justified in view of instructions dated 25.04.2017. Nature of the job held by the writ-petitioner earlier was totally different and neither had he been absorbed on account of winding-up of autonomous bodies. Appointment as Junior Auditor has to be taken as a fresh appointment. There is thus no question of counting previous service rendered by the writ-petitioner with PUNSUP for the purpose of calculation of pensionary benefits. It is, thus, prayed that this appeal be allowed and impugned order 07.12.2023 be set aside with the writ petition, in question, being dismissed throughout.

6. We have heard learned counsel for the appellants and have gone through the file with his able assistance. However, we do not find any ground to cause interference in this matter.

7. The factual aspect as above in respect to joining of respondent-writ petitioner, firstly, with PUNSUP on regular basis on a Class-IV post from October, 1978 is not in dispute as well as writ-petitioner subsequently joining the post of Junior Auditor in the Department of Finance as an in-service candidate. Learned counsel for the appellants-State is unable to deny that the matter in the case of **Mohan Lal's case** (supra) has attained finality with the said employee being identically situated with writ-petitioner in the instant case. Admittedly, writ-petitioner had applied through proper channel while in service and he was selected while treating him as an in-service candidate. Reliance upon instructions dated

25.04.2017 which was admittedly issued years after the retirement of the writ petitioner (on 30.04.2009) is clearly misplaced.

8. Keeping in view the facts and circumstances as above, we do not find any ground to cause interference for setting aside order dated 17.12.2023 passed by the learned Single Bench which does not suffer from any illegality or perversity.

9. It is noticed at this stage that there is a delay of 289 days in filing this appeal. No reasonable explanation for the delay has been set forth, except to say that the said delay has occurred on account of the time taken to get permission from the competent authority of the Department for filing the present appeal. In our considered opinion, same does not, in any manner, indicate a reasonable explanation for delay in filing of the appeal.

10. No other argument has been raised.

11. Keeping in view the above, this appeal as well as the application seeking condonation of delay are dismissed being devoid of any merit.

12. Pending application(s) are disposed of, accordingly.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

October 04 , 2024.
'om'

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