



CWP-1955-2025

-1-

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

117

CWP-1955-2025

Date of Decision: 24.01.2025

Vidya Sagar

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Sachin Gupta, Advocate for the petitioner

Mr. Raman Sharma, Additional Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 13.11.2024 (Annexure P-9) and 21.03.2024 (Annexure P-10) whereby respondent has declined to count his service for the purpose of pension.

2. The petitioner joined Haryana Agro Industries Corporation Limited (for short 'HAICL') in 1976. He retired from the office of HAICL on 31.03.2000. Prior to that he had worked for about 10 years with one common facility workshop of Industrial and Commerce Department, Haryana. The job with Industrial and Commerce Department was pensionable, however, job with HAICL was non-pensionable. The petitioner after his retirement started litigation against respondents. This Court vide order dated 18.11.2016 (Annexure P-1) passed in *CWP No.9807 of 2014* directed the respondent to calculate pension considering petitioner's service of 9 years, 9 months and 17 days as complete 10 years' service. The



respondent on 15.12.2017 granted pension along with interest in compliance of order dated 18.11.2016 of this Court. After getting pension as per orders of this Court, the petitioner started another round of litigation claiming that his service with HAICL should be counted for the purpose of determination of pension. The service with HAICL was non-pensionable job.

3. Learned counsel for the petitioner submits that respondent was bound to count his service with HAICL for the purpose of pension. The respondent has wrongly rejected his claim.

4. I have heard the arguments of learned counsel for the petitioner and perused the record with his able assistance.

5. The petitioner filed writ petition in 2014 claiming pension. This Court passed order dated 18.11.2016 whereby respondent was directed to pay pension considering his 9 years, 9 months 17 days service as complete 10 years' service. The operative portion of order dated 18.11.2016 passed by this Court is reproduced as under : -

“The question involved in this case is regarding interpretation of Rule on the point that whether the job of the petitioner in Haryana Industries and Commerce Department is pensionable or not? Undoubtedly, previously, Director had taken a view vide letter Annexure P2 that service of 9 years and 10 months be treated as 10 years in view of the instructions of the Finance Department. However, now, he has changed his view.

Rule 6.1 of Punjab Civil Service Rules Volume II Chapter -VI is reproduced as under:-

6.1. The amount of pension that may be granted is determined by length of service as set forth by the succeeding section of this Chapter. [Fraction of a year



equal to three months and above shall be treated as a completed one-half year and reckoned as qualifying service for describing the amount of pension]

A perusal of aforesaid Rule shows that the service is counted in six months. Therefore, service of 10 years comes to 20 half years. Rule clearly shows that a fraction of year equal to 3 months and above shall be treated as complete one half year, which means that if the service is more than 9 ½ year, it is to be treated as 10 years under the said Rule. Therefore, the view taken in the order Annexure P8 is apparently contrary to Rule 6.1 of Punjab Civil Service Rules Volume II Chapter -VI.

The matter was also considered by a Division Bench of this Court in Amrik Singh vs. State of Punjab and others, (CWP No.8012 of 2003) decided on 8.7.2004, wherein service of 9 years 9 months 17 days was ordered to be treated as complete 10 years of service.

In view of Rule 6.1 of Punjab Civil Service Rules Volume II Chapter -VI and the judgment of this Court in Amrik Singh's case (supra), it is ordered that service of the petitioner, which is 9 year 10 months and 1 day, shall be treated as complete 10 years and the petitioner is accordingly entitled to pension treating his qualifying service to be 10 years in Haryana Industries and Commerce Department.

Accordingly, the impugned order dated 24.4.2014 (Annexure P8) is hereby quashed. Respondents are directed to calculate the pension accordingly and release the same to the petitioner within two months from the date of receipt of a certified copy of this order. Needless to say that the interest @ 9% per annum on the arrears shall also be granted to the petitioner.”

6. From the perusal of above-cited order, it is evident that petitioner while filing writ petition in 2014 was interested to get pension as per his 9 years 9 months and 17 days service. He got pension in view of



CWP-1955-2025

-4-

orders of this Court. After getting pension, he changed his mind and started another set of litigation claiming that pension should be determined after including period of service rendered with HAICL. The said issue could be raised at that stage but petitioner was interested firstly to create his right of pension and as soon as pension was granted, he turned around and started making claim to the effect that his non-pensionable service should also be counted towards pensionary benefits. The claim of petitioner is hit by principle of constructive *res judicata* apart from delay and laches. The petitioner retired in 2000 and instant petition has been filed in 2025.

7. In view of above discussion and findings, principles of *res judicata* and delay & laches, this Court does not find it appropriate to interfere with the impugned orders dated 13.11.2024 (Annexure P-9) and 21.03.2024 (Annexure P-10). The petition being barred by limitation and principle of *res judicata* deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

24.01.2025

Mohit Kumar

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