2025:PHHC:117204

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105

CWP-6271-2004 (O&M)
Date of decision: 01.09.2025

Karam Singh

....Petitioner

Versus

Municipal Council, Faridkot and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Devinder Kumar Kaushal, Advocate
for the petitioner.

Mr. H.S. Lalli, Advocate (through video conferencing)
for respondents No.1 and 2.

Mr. Vikas Arora, DAG, Punjab
for respondents No.3 and 4.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the order dated 07.01.2004 (Annexure P-1) passed by respondent No.3 vide which the claim of the petitioner was rejected and for quashing the order dated 03.11.2003 (Annexure P-2) passed by respondent No.1, whereby the amount of Rs.14,952/- on account of House-Tax, has been deducted. Further prayer has been made to grant pensionary benefits, gratuity, leave encashment and other benefits after counting the entire service of the petitioner i.e. 35 years, 08 months and 21 days instead of counting 32 years, 08 months and 06

days and the petitioner be also granted interest @ 18% per annum from the due date i.e. the date of retirement till its realization.

2. Learned counsel for the petitioner*, inter alia,* contends that the petitioner has served for 35 years, 08 months and 21 days of service upto his retirement on 30.11.2000, but the respondents have wrongly and illegally counted the qualifying service of the petitioner as 32 years, 08 months and 06 days. The claim of the petitioner is required to be considered in terms of the judgment passed by the Coordinate Bench of this Court in **CWP No.24322 of 2016**, titled as ***Amarjit Singh vs State of Punjab and others***, decided on **23.05.2022**, by considering the total length of service and further the deduction from the HRA made by the respondent/Corporation is contrary to the provisions contained in Section 61 of the Punjab Municipal Act, 1911. As per the aforementioned statutory provisions only the owner is liable to pay the house-tax, however, in the impugned order, the house-tax has been deducted from the salary of the petitioner. There is no provision which stipulates recovery of the house-tax from the salary of the employee in case a default is made by any family member.

3. Learned State counsel representing respondents No.3 and 4, submits that the Hon'ble Apex Court vide order dated 27.04.2000, has passed an order in ***Civil Appeal No.3257 of 1998, arising out of CWP No.13446 of 1997*** by setting-aside the impugned judgment of this Court and remanded the case for a fresh decision to be considered in terms of the The Punjab Municipal Employees Pension and General Provident

2025:PHHC:117204

Fund Rules, 1994 (in short ‘the Pension Rules, 1994’). He submits that Rule 8(4) of the Pension Rules, 1994 requires the sanctioning authority to ensure that employee contributions for the period reckoned for pension have been duly credited to the Fund. Learned State counsel submits that reliance made by learned counsel for the petitioner on the case of ***Amarjit Singh’s (supra)*** is totally misconceived as the said judgment pertains to interpretation of Punjab Panchayat Samiti and Zila Parishad Employees Pension and Provident Fund Rules, 2000 whereas the case of the petitioner has to be considered in the light of the Pension Rules, 1994.

4. On the other hand, learned counsel for respondents No.1 and 2 could not controvert the fact that the impugned order (Annexure P-2) vide which the deduction qua the default of house-tax by the wife of the petitioner, has been made from the salary of the petitioner, is not supported by any legislative mandate.

5. In rebuttal, learned counsel for the petitioner submits that the petitioner has rendered a total service of 35 years, 08 months, and 21 days, and is at least entitled to the benefit of 33 years of qualifying service. However, only 32 years, 08 months, and 06 days have been considered. He further submits that, in terms of the judgment in ***Amarjit Singh’s case (supra)***, the total length of service rendered by the petitioner should be taken into account for the purpose of determining the qualifying service. He further submits that he would be satisfied in case a direction is given to the respondents to grant consequential

benefits to the petitioner with regard to remaining period of 03 months and 24 days (approx.) by counting the maximum qualifying service of the petitioner as 33 years.

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

7. Admittedly, it is not in dispute that the petitioner rendered total service of 35 years, 08 months, and 21 days before retiring on 30.11.2000. However, the respondents have considered only 32 years, 08 months, and 06 days as qualifying service. Rule 8(4) of the Pension Rules, 1994 mandates the sanctioning authority to ensure that employee's contributions have been duly credited to the Fund for the period in service to be counted towards pension. Since there is no allegation of any deficiency in the petitioner's contributions, he is entitled to the benefit of 33 years of qualifying service. Additionally, the deduction of ₹14,952/- from the petitioner's salary on account of house-tax default by his wife is legally unsustainable, being unsupported by any statutory provision. In ***Amarjit Singh's case (supra)***, it has been held that full qualifying service, up to the maximum permissible limit of 33 years, can be granted when the employee has rendered such service.

8. In view of the above, the present petition is allowed. The impugned orders dated 07.01.2004 and 03.11.2003 are quashed. The respondents are directed to pass a fresh order, strictly in terms of Sections 4 and 5 of the Employees Pension Scheme, 1995, by treating the petitioner's qualifying service as 33 years and recalculate all the

retiral benefits accordingly, including refund of the deducted house-tax amount, if not already done, which shall be paid to the petitioner with interest @ 7.5% from the date of deduction till its actual realization. No other interest shall be payable or recoverable by either of the party in respect of any previous deduction or payment made. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

01.09.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No