

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CWP No.15564 of 2015****Date of decision: 06.11.2025****Hardev Singh****.... Petitioner****Vs.****Presiding Officer, Industrial Tribunal, Patiala, and others****.... Respondents****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Ravi Gakhar, Advocate,
for the petitioner.

Mr. Anil Kumar Sharma, Advocate,
for respondents No.2 and 3.

KULDEEP TIWARI, J (Oral)

1. Through the instant petition, the petitioner-workman has assailed the order dated 12.05.2014 (Annexure P-1) passed by the learned Industrial Tribunal, Patiala, whereby his application under Section 33(C)(2) of the Industrial Disputes Act, 1947 ("the Act") for recovery of Rs.1,39,600/, claimed as the shortfall in pensionary benefits, was dismissed holding that as the petitioner had remained out of employment, no back wages were awarded to him at the time of reinstatement, thus, he was not entitled to claim any benefit for the said period.

2. Learned counsel for the petitioner while drawing attention of this Court to the award dated 03.01.2001 (Annexure P-2), whereby, the petitioner was granted the relief of reinstatement with continuity of service, but without back wages, contends that since continuity of service was specifically granted, the period, during which the petitioner remained out of employment due to his illegal termination, ought to have been reckoned for computation of pensionary benefits. It is argued that the learned Tribunal has failed to appreciate this aspect in its right perspective while rejecting the petitioner's application under Section 33(C)(2) of the Act.

3. Learned counsel for the contesting respondents No. 2 and 3, while drawing the attention of this Court towards Regulation 6.3 of the Regulations as well as to the judgment rendered by the Division Bench of this Court in **LPA No. 15436 of 2018**, titled as **Ranbir Singh v. Pepsu Road Transport Corporation, through its Secretary, Patiala and another**, decided on **27.11.2018**, submits that the petitioner is not entitled to have the aforesaid period reckoned towards calculation of pensionary benefits.

4. At this stage, the facts which are not in dispute between the parties are that the petitioner was initially appointed as a Conductor in the year 1968, and his services were regularised in the year 1974. Subsequently, his services were terminated in the year 1997, leading to the filing of a reference under Section 10(1)(C) of the Act. The said reference was answered in favour of the petitioner-workman by the Tribunal, which, vide award dated 03.01.2001, declared his termination to be illegal and ordered his reinstatement with continuity of service but without back wages. The relevant portion is extracted below:

(21) In view of the above discussion, on the above issues, the reference is answered in favor of the workman who is ordered to be reinstated with continuity of service, but without back wages. He is directed to report for duty within 30 days of the publication of the award. No order as to costs."

5. Thereafter, the petitioner retired upon attaining the age of superannuation in 2005. He was granted pensionary benefits by treating the period from 1997 to 2001 as out of service, which caused a grievance and propelled him to file an application under Section 33 (C)(2) of the Act for release of Rs.1,39,600/- from the respondent, which was denied while passing the impugned order dated 12.05.2014 (Annexure P-1), and the petitioner has now assailed the same through the instant petition.

6. Upon careful examination of the impugned order, this Court finds that the learned Tribunal erred in failing to decide the core issue raised by the petitioner. The learned Tribunal declined the claim of the petitioner on the premise that he had opted for the revised pay scale with effect from 01.01.1996 vide option dated 25.09.2001, pursuant to which he was paid in accordance with the revised scale. Further, upon his promotion, his pay was revised from Rs.4,100/- to Rs.4,400/-. Consequently, the learned Tribunal held that he was not entitled to any additional monetary benefit as claimed in his application. It is, however, not in dispute that the petitioner had been granted the relief of continuity of service, though without back wages. Hence, the period during which he remained out of employment is liable to be reckoned for the purpose of determining his pensionary benefits. The reliance placed by the respondents on Regulation 6.3 of the relevant Regulations is misplaced, as the said provision does not support the exclusion of this period while computing the petitioner's qualifying service for pensionary purposes. At this stage, it becomes pertinent to reproduce Regulation 6.3 of the Regulations, which is extracted hereinafter:

(1) and (2) **xx** **xx** **xx**

(4) $xx \quad xx \quad xx$

8. Consequently, the impugned order dated 12.05.2014 (Annexure P-1) is **set aside**, and the instant petition is **disposed of** with a mandamus upon the respondents to recalculate the pensionary benefits admissible to the petitioner-workman. The calculations shall be carried out within three months from the date of receipt of a certified copy of this order, failing which the petitioner-workman shall be entitled to interest @ 6% per annum from the date of passing of this order.

06.11.2025
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DEEPAK KUMAR
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I attest to the accuracy and
authenticity of this document
P & H High Court, Chandigarh