

Counsel for the Parties Are Ad Idem That the Vs. Mandeep Singh and anr.

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Court : Punjab and Haryana

Decided On : May-06-2013

Appellant : Counsel for the Parties Are Ad Idem That the

Respondent : Mandeep Singh and anr.

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH COCP
No.356 of 2013 Date of decision:

06. 05.2013 Baldev SinghPetitioner(s) Versus Mandeep Singh &
anr.....Respondent(s) CORAM:- HON'BLE MR.JUSTICE RAKESH KUMAR
GARG * * * Present: Mr.Padamkant Dwivedi, Advocate for the
petitioner(s).Mr.Anant Kataria, AAG, Punjab.

Rakesh Kumar Garg, J.(Oral) The petitioner, who was working as Conductor with
the Punjab Roadways, Moga, was placed under suspension on 18.8.1979 and
thereafter, his services were terminated on 26.3.1980.

The Labour Court vide its judgment dated 17.2.1983 decided the reference in his
favour and held that the petitioner was entitled to reinstatement with continuity of
service.

However, backwages were denied to him.

Accordingly, the petitioner was taken back on duty on 15.7.1993.

It may also be noticed that CWP No.5262 of 1982 filed by the respondent-Department challenging the aforesaid award was dismissed by this Court on 2.8.2002.

The petitioner filed the instant writ petition i.e.CWP No.10467 of 2011 seeking the following relief: Civil Writ Petition under Articles 226/227 of the Constitution of India, inter alia, praying for the issuance of a writ, order or direction especially in the nature of writ of mandamus directing the respondents to count the period from 18.8.1979 to 15.7.1983 as qualifying service and re-fix his salary after granting him notional increments for the said period;.

For the issuance of a writ in the nature of mandamus directing the respondents to make the payment of all the consequential benefits with interest to the petitioner after correcting his period of qualifying service and refixing his pay; For the issuance of any other writ order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

The said writ petition was disposed of by this Court vide order dated 5.9.2012 in the following terms.In terms of the speaking order at annexure R-I appended alongwith the written statement, a decision has been taken that the services of the petitioner for the period he remained out of service i.e.From 18.08.1979 to 15.07.1983 would be counted towards seniority as well as qualifying services for the purposes of retiral benefits.

Counsel for the parties are ad idem that the petitioner is also entitled for the benefit of notional pay fixation/increments for the period in question and such claim is covered in terms of the judgment dated 11.05.2010 passed by this Court in CWP No.8498 of 2010 in Balbir Singh versus State of Punjab & others (Annexure P-5).Accordingly, the present writ petition is allowed and directions are issued to the respondent/authorities to even count the period that the petitioner remained out of service i.e.from 18.08.1979 to 15.07.1983 for purposes of grant of notional pay fixation.

The necessary exercise be completed within a period of four months from the date of receipt of certified copy of this order.

Petition allowed in the aforesaid terms.

Non-compliance of the aforesaid order has been alleged in this petition.

Upon notice, reply has been filed.

Para No.3 of the aforesaid reply reads thus: That in compliance of the above said order of this Hon'ble Court, a detailed speaking order has been passed vide order 1092-95A/ECM dt.

8.4.2013 copy of the same is attached as Annexure R-1.

The period of the service of the petitioner from 18.8.1979 to 15.7.1983 has been counted for the purpose of grant of notional pay fixation vide order No.1088-91/ECM dated 8.4.2013.

Copy of the same is annexed herewith as Annexure R-2 and the true translation copy of the same is attached as Annexure R-2/T.

The relevant part of the speaking order dated 8.4.2013 passed in favour of the petitioner reads as under: I have gone through the record of the official and is of the opinion of law officer of the department and therefore, order that the period of the service of the Baldev Singh petitioner from 18.08.79 to 15.07.83 will be counted for the purpose of grant of notional pay fixation and hence his pay fixation is accordingly fixed as per the order dated 05.09.12 passed by the Hon'ble High Court.

The pay of the petitioner has been revised (Basic Pay) from Rs.17,800/- to Rs.19,750/-.

As per order of the Hon'ble High Court.

However he will not be paid any arrears from 18.08.79 to 15.07.83.

His service book be completed accordingly.

Still, counsel for the petitioner is not satisfied and has stated that the respondents have fixed the pay of the petitioner notionally for the absence period but further,

have not released the arrears w.e.f.15.7.1983.

This Court is of the view that submission made by the counsel for the petitioner is totally incorrect as the aforesaid relief was not granted by the Court while disposing of the writ petition .

In view of the aforesaid, this Court is of the view that the present contempt petition has been rendered infructuous.

Ordered accordingly.

May 06, 2013 (RAKESH KUMAR GARG) ps JUDGE

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