
(2008) 05 P&H CK 0084
In the Punjab And Haryana At Chandigarh

State of Haryana and Others

APPELLANT

Vs

Ratti Ram

RESPONDENT

Date of Decision : 02-05-2008

Acts Referred:

Citation : (2009) 2 LLJ 37 : (2008) 151 PLR 372 : (2008) 3 RCR(Civil) 176

Hon'ble Judges : Vijender Jain, C.J.;Jaswant Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Vijender Jain, C.J.—This is a Letters Patent Appeal filed against the judgment dated 19.11.2007 passed by the learned single Judge in CWP No. 17821 of 2000 vide which the writ petition filed by Ratti Ram-respondent herein has been allowed to the extent of allowing pensionary benefits to him after counting the service rendered by him from 22.5.1985 to 17.4.1997.

2. Broadly, the facts are that respondent-Ratti Ram was appointed as a driver with Haryana Roadways, Sonapat on 22.5.1985. He worked as such till 25.6.1995, when he met with a serious accident while on duty. He was admitted to PG1MS, Rohtak as an indoor patient on 25.6.1995. He remained on leave of the kind due from 25.6.1995 till 17.4.1997 i.e. the date with effect from which he was retired on medical grounds under Rule 5.18 of the Punjab Civil Service Rules (Volume II) (as applicable to Haryana) vide orders dated 30.9.1997 (Annexure P-4) on the basis of report dated 26.3.1997 of the Special Medical Board of PG1MS, Rohtak, opining that Ratti Ram-respondent, being 100% disabled was unfit to perform the duties of the post of driver. He was denied pensionary benefits as also exgratia/compassionate appointment for his dependent son. Therefore, he filed C.W.P. No. 17821 of 2000. State, upon notice, filed reply and the primary stand taken was that Ratti Ram had only 9 years 1 month and 18 days" qualifying service as against the required minimum 10 years service, prescribed under the Punjab Civil Service Rules and as such he was not entitled to pension. It was further submitted that an amount of Rs. 55,709/- had

already been released on account of retiral benefits admissible to him.

3. At the time of hearing before the learned single Judge, Ratti Ram-respondent limited his claim to pensionary benefits. The learned single Judge allowed the writ petition to the extent that the State was directed to allow him pensionary benefits after counting the service rendered by him from 22.5.1985 to 17.4.1997, by holding as under:

Petitioner had joined the service of Haryana State on 22.5.1985 and was compulsorily retired on 17.4.1997. From the details as mentioned in para No. 5 of the written statement, it would come out that from 25.6.1995 when the petitioner met with the accident till he was compulsorily retired, he had remained on earned leave for some period, half pay leave for some period and then without pay leave also for some period. However, it clearly comes out that he was on some kind of leave during the period from 25.6.1995 to 17.4.1997 and petitioner was never shown absent from duty.

4. The learned Additional Advocate General has contended that the learned single Judge has ignored the fact that the petitioner for a period of 2 years 3 months and 16 days was under suspension/absent without pay and without pay leave and thus had not completed 10 years" of qualifying service to be entitled for the grant of pensionary benefits and therefore, the impugned judgment is liable to be set aside.

5. We have heard learned Counsel for the appellants and perused the record.

6. We find that the appellants have not placed on record of the present appeal, the affidavit filed before the learned single Judge containing the said details of 2 years 3 months and 16 days, upon which the whole case is sought to be built.

7. We further find that Rule 5.18 of Punjab Civil Service Rules, Volume II, under which the petitioner being 100% disabled has been retired from service, is contained in Section III of Chapter V of Punjab Civil Service Rules, Volume II (as applicable to Haryana) laying down the conditions of granting invalid pension. A reading of Rule 5.11 of the same Section III indicates that an invalid pension is awarded on retirement from public service to a government employee, who becomes permanently incapacitated for that public service. In the present case Ratti Ram-respondent (Driver in Haryana Roadways) was declared to be 100% disabled and therefore, unfit for the post of driver, as opined by the Special Medical Board of PGIMS, Rohtak. Therefore, we find that he fulfilled the condition of grant of invalid pension.

8. It is further borne out from record that Ratti Ram-respondent vide order dated 16.5.1987 (Annexure P-2) issued by General Manager, Haryana Roadways, Panipat had been allowed the benefit of military service w.e.f. 17.2.1966 to 10.1.1968 for the service rendered during emergency in pursuance of government instructions contained in letter dated 20.7.1965 read with letter dated 4.8.1986 and given the assumed date of appointment as driver w.e.f.

1.8.1983

9. Accordingly, he had been granted increment w.e.f. 1.8.1984 in the admissible pay scale of Rs. 420-700. This fact has not been denied in the written statement. Instead it has been stated that the record relating to the petitioner's service had been destroyed during the anti-reservation agitation in August/September 1990 and therefore, the averments cannot be authenticated.

10. Therefore, we draw adverse inference and are of the view that the period w.e.f. 1.8.1983 to 22.5.1985 shall also count towards his qualifying service for pension and as a result of addition of this period of one year and 91/2 months approximately he thus, becomes entitled to grant of pension since his qualifying service becomes more than 10 years as required under the Punjab Civil Service Rules.

11. No further point has been urged.

12. In view of the aforesaid discussion no case for interference is made out.

Dismissed.