(2009) 01 P&H CK 0043

In the Punjab And Haryana At Chandigarh

Case No : C.W.R No. 14157 of 2008

Sucha Singh APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 12-01-2009

Acts Referred:

Citation : (2009) 2 ILR (P&H) 658

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Advocate : J.S. Bhatia, for the Appellant; Charu Tuli, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Permod Kohli, J.—I have heard the learned Counsel for the parties at length and perused the record of the case.

2. The Petitioner served in the Indian Army from 18th January, 1966 to October, 1980 when he retired from service. He was registered with the Employment Exchange, Ropar. Name of the Petitioner was sponsored by the Employment Exchange in the year 1982 for his appointment as Watchman in the Food and Civil Supplies Department, Punjab. He was appointed as Chowkidar in the Respondent-department in October, 1982. The Petitioner was allowed all service benefits during the period of his service. He was retired from service on 31st December, 2007 on attaining the age of superannuation. He has rendered about 25 years of service with, unblemished record. The Petitioner asked for the retiral benefits, but the same were not granted. He also served a legal notice. The claim of the Petitioner for retiral benefits has been rejected,--vide Memo No. M-3-08/1474, dated 27th June, 2008 (Annexure P-3) on the ground that the Petitioner''s appointment was totally on temporary basis and he was not a regular employee of the department. The Petitioner has, accordingly, filed this petition challenging order Annexure P-3 and also prayed for a direction in the nature of mandamus to pay him the retiral benefits as a regular Government

servant.

3. The issue involved in the present writ petition is squarely covered by a Division Bench judgment of this Court dated 27th January, 2005 passed in CWP No. 7780 of 2004 (Rakha Singh v. State of Punjab and Ors.), wherein the following directions have been issued:

It is necessary to mention here that State of Punjab had circulated document, Annexure P-8 i.e. liberalization of pensionary benefits policy on 31st August, 1999 wherein in para 6, it is mentioned as under:

6. The temporary employee shall be treated at par with permanent employee in respect of all retirement benefits viz. Retiring, Superannuation, Compensation and invalid pensions and service and Death-cum-Retirement Gratuity.

This Court feels that contents of policy, Annexure P-8, referred to above, also help the Petitioner in claiming benefits, though may not be strictly covered.

Accordingly, this writ petition is allowed. Respondents are directed to consider and treat the Petitioner as a regular employee prior to date of his retirement and thereafter re-consider his claim for pension and pay retiral benefits to him within a period of two months from the date of receipt of a copy of this order. No order as to costs.

4. Learned Counsel for the Petitioner has also placed on record a copy of the order dated 18th July, 2005 passed by the Hon''ble Supreme Court of India whereby the SLP filed against the aforesaid judgment, has been dismissed.

5. Ms. Charu Tuli, learned Senior Deputy Advocate General, Punjab, has contended that as per the Civil Services Rules, the Petitioner is not entitled to pensionary benefits.

6. This argument has no force. In view of the judgment passed by a Division Bench of this Court which has been affirmed by the Hon''ble Supreme Court, it creates a binding precedent.

7. In view of the aforesaid circumstances, this petition is allowed. The Respondents are directed to consider and treat the Petitioner as a regular employee prior to date of his retirement and thereafter to re-consider the claim of pension and pay retiral benefits to him which are being paid to the regular Government servant. The Respondents are further directed to consider the claim of the Petitioner within a period of two months from today and if the retiral benefits are not released within a period of one month thereafter, he shall be entitled to interest at the rate of 6 per cent per annum on the amount from the date it became due till actual payment. No costs.