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CWP-4378-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-3612-CWP-2025 in/&
CWP-4378-2023
Date of Decision :20.03.2025

Baljinder Singh

...Petitioner

Versus

State of Punjab & others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ritesh Aggarwal, Advocate for the petitioner.

Mr. Malkiat Singh, DAG, Punjab for respondent No.1-State.

Mr. Ashwani Prashar, Advocate for respondents No.2 & 3.

Mr. Rajesh Hooda, Advocate for respondents No.4 to 7.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance being raised by the petitioner is that the time period qua the past service rendered by the petitioner with the Kotkapura Cooperative Spinning Mills Limited, District Faridkot starting from 22.02.1991 to 22.09.1999 has not been taken into account by EPF authorities for the grant of pensionary benefits qua the time period the petitioner rendered his service in Faridkot Central Cooperative Bank, where he worked starting from 25.05.2011 upto the date of his retirement i.e. 30.04.2020.

2. Learned counsel for the petitioner submits that the petitioner



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was initially appointed as a Clerk in the Kotkapura Cooperative Spinning Mills Limited, District Faridkot on 15.02.1991 vide appointment letter annexed as (Annexure P/1) and a provident fund account number was allocated to him and the subscription was being deposited by the petitioner from the date of his appointment i.e. 22.01.1991. Learned counsel for the petitioner further submits that the services of the petitioner were retrenched by the Kotkapura Cooperative Spinning Mills Limited, District Faridkot w.e.f. 22.02.1999 vide order No.365 dated 23.11.1998. On being retrenched, the petitioner withdrew the amount from his EPF account. Learned counsel for the petitioner also submitted that the employees whose services were retrenched by the Kotkapura Cooperative Spinning Mills Limited, District Faridkot had filed a writ petition being **CWP-2483-1999 titled as Pawan Kumar Datta and others vs. State of Punjab and others**, which writ petition was decided by the Division Bench of this Court on 17.03.1999 (Annexure P/4) wherein, certain directions were given to the Registrar of the Cooperative Society that the retrenched employees should be adjusted in the other cooperative institutions. While passing the said order, the Division Bench of this Court also held that the pay of the employees shall be protected and past service would be counted for pension and other service benefits but not for seniority.

3. Learned counsel for the petitioner contends that thereafter, the petitioner was absorbed with the Faridkot Central Cooperative Bank Limited on 25.05.2011, where he worked upto the date of his retirement i.e. 30.04.2020. Learned counsel for the petitioner argues that after the retirement of the petitioner from the said institution, the benefit of pension



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was not given to the petitioner by the respondent-EPF authorities on the ground from the date of joining the Faridkot Central Cooperative Bank Limited on 25.05.2011 up to the date of retirement i.e. 30.04.2020, the petitioner did not have the required 10 years minimum services so as to grant him the benefit of pension. Further the time period qua the earlier service rendered by the petitioner with Kotkapura Cooperative Spinning Mills Limited, District Faridkot has not been calculated so as to count the total length of service of the petitioner in order to grant the petitioner the benefits accrued to him, which act is contrary to the direction given by the Division Bench of this Court in CWP-2483 of 1999 vide order dated 17.03.1999. Hence, the prayer of the petitioner is that respondent-EPF authorities be directed to count the total length of the service rendered by the petitioner in both the institutions so as to adjudge the eligibility of the petitioner for the grant of benefit of pension for the time the petitioner rendered his services in Cooperative bank.

4. Upon notice of motion, the respondents have appeared. Learned counsel appearing on behalf of the respondent-EPF authorities submits that though, it is correct that the petitioner was initially appointed with the Kotkapura Cooperative Spinning Mills Limited, District Faridkot and he worked there from 22.02.1991 to 22.02.1999 but after being retrenched, he had already withdrew his due entitlement from his EPF account and hence, once, a particular entitlement was withdrawn by the petitioner after the petitioner was appointed in the Faridkot Central Cooperative Bank Limited starting from 25.05.2011 upto the date of his retirement i.e. 30.04.2020, only the said time period spent in service can be taken into account for



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deciding upon the eligibility of the petitioner qua the grant of benefit of pension and as the petitioner did not have the 10 years minimum required service to his credit starting from 25.05.2011 up to the date of retirement i.e. 30.04.2020, the benefit of pension has rightly not been extended to the petitioner.

5. Learned counsel of the respondent-EPF authorities further submits that any benefit accrued to the petitioner qua earlier services rendered by him which entitlement already stand withdrawn cannot be taken into account for calculating the total length of service keeping in view para-6-A and 14 of the Employees Pension Rules, 1995 and hence, the claim of the petitioner is liable to be rejected.

6. Learned counsel appearing for the respondent-Faridkot Central Cooperative Bank submits that the dispute is between the petitioner and the respondent-provident fund authorities.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. Certain facts which have been noticed hereinbefore are not in dispute such as, the petitioner worked with Kotkapura Cooperative Spinning Mills Limited, District Faridkot starting from 22.02.1991 till 22.09.1999. It is also not in dispute that keeping in view the direction issued by the Division Bench of this Court in CWP-2483-1999 titled as Pawan Kumar Datta and others vs. State of Punjab and others, the retrenched employees including the petitioner were again absorbed in other cooperative institutions, which led to the appointment of the petitioner in Faridkot Central Cooperative Bank on 25.05.2011, where he worked up to the date



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of his retirement i.e. 30.04.2020.

9. The only question which now arises is, whether the withdrawal of the provident fund amount by the petitioner from his EPF account upon being retrenched in the year 1999, the petitioner will lose the right for the consideration of the time period for the service which he had rendered with the Kotkapura Cooperative Spinning Mills Limited, District Faridkot starting from 22.02.1991 to 22.09.1999 qua his entitlement to get benefits of pension under the Employees Pension Scheme, 1995 or not.

10. Once, the Division Bench of this Court while passing order dated 17.3.1999 in CWP-2483-1999 titled as Pawan Kumar Datta and others vs. State of Punjab and others, has already held that the previous service rendered by the retrenched employees therein, is to be taken into account for the grant of pensionary benefits therefore, the provisions of the Employees Pension Scheme, 1995 cannot be brought into operation so as to deny the said benefit of pension to the petitioner. Once, the competent Court of law has already given the direction that time period of earlier services rendered by employees is to be taken into account for the grant of pensionary benefits, the said benefit has to be extended otherwise, the same will be violative of the direction given by the competent Court of law, which direction given has already attained finality. Merely that the petitioner withdrew the amount of EPF from his account after being retrenched from Kotkapura Cooperative Spinning Mills Limited, District Faridkot in the year 1999 cannot take away the right of the petitioner to take benefit of the direction given by the Division Bench of this Court that earlier service rendered by the petitioner with the Kotkapura Cooperative



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Spinning Mills Limited, District Faridkot from 22.02.1991 to 22.09.1999 will be counted for the purpose of grant of pensionary benefits.

11. The only grievance raised by the respondent-EPF authorities is that the petitioner had already taken away the amount of provident fund after his retrenchment from service in the year 1999.

12. Learned counsel for the petitioner submits that the said amount withdrawn by petitioner in the year 1999 will be deposited back by the petitioner along with statutory interest with the provident fund authorities so that the authorities do not suffer any prejudice and the petitioner can also get his entitlement.

13. At this stage, learned counsel for the respondent-EPF authorities submits that the EPF authorities were not party to the **CWP-2483-1999 titled as Pawan Kumar Datta and others vs. State of Punjab and others**, hence, the direction given in the said petition is applicable qua the Cooperative Society only, wherein the retrenched employees were to be absorbed so as to render their service in other Co-operative institution and where the post was pensionable and hence, the said order cannot be brought into operation qua the respondent-EPF authorities.

14. It may be noticed that a direction has been given by the Division Bench of this Court that earlier service is to be taken into account for the grant of pensionary benefits, the same will be applicable qua all the authorities, who are liable to pay pension even though that authority is not made a party in the petition hence, the ground being taken by the learned counsel appearing for the respondent-EPF authorities that the EPF authorities will not be bound by the said order, will deny the legitimate right



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of the aggrieved employee, who is otherwise entitled for the grant of benefit of pension and hence, the said argument raised by the learned counsel for the EPF authorities cannot be accepted.

15. Learned counsel for the respondent-EPF authorities further argues that he has not even filed reply to the present petition.

16. It may be noticed that though, the respondent-EPF authorities have not filed reply to the petition but, all the objections being raised by the learned counsel for the respondent-EPF authorities, have already been dealt with by this Court while passing the present order.

17. Keeping in view the totality of the facts and circumstances of the present case, coupled with the order passed by the Division Bench of this Court in **CWP-2483-1999 titled as Pawan Kumar Datta and others vs. State of Punjab and others**, respondent-EPF authorities are directed that the benefit of earlier service rendered by the petitioner with the Kotkapura Cooperative Spinning Mills Limited, District Faridkot starting from 22.02.1991 to 22.09.1999 be granted to the petitioner while adjudging his entitlement qua the grant of pensionary benefits after the petitioner retired from service from Faridkot Central Cooperative Bank after serving the said bank from 25.04.2011 to 30.04.2020. In case, the petitioner deposits the amount, which he had withdrawn from EPF account upon his retrenchment in the year 1999 along with statutory interest, the respondent-EPF authorities will take into account the total length of service rendered by the petitioner in both the institutions and calculate the pensionary benefits admissible to the petitioner. The petitioner shall be granted the benefit of pension from the date of his retirement i.e. 01.05.2020 onwards along with



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arrears.

18. Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

19. Present petition is allowed in above terms.

20. Civil miscellaneous application pending, if any, is also disposed of.

March 20, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No