

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

C.W.P. No.7811 of 1998

Date of Decision : 25.03.2015

Ram Sarup

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Ms. Divya Godara, Advocate
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl.A.G., Haryana.

Mr. R.S. Dadwal, Advocate
for Mr. Aman Chaudhary, Advocate
for respondent No.2.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

By this petition the petitioner has prayed for the relief of pension.

Undisputedly, the respondents took the petitioner in its employment on 15.10.1982. In the year 1993 he filed civil writ petition bearing CWP No.14369 of 1993 praying to grant him a regular pay-scale.

That writ petition was allowed and the respondents granted him regular pay-

scale from the date of filing of the writ petition. He attained the age of superannuation in October, 1997 and was relieved from service. It is thereafter that he claimed the relief of pension and having been denied the same he approached this Hon'ble Court by way of present writ petition.

Learned counsel for the respondent No.2 has admitted that services of the petitioner were only regularized in 1993 and, as per the pension regulations 10 years regular service is a pre-requisite for grant of pension and therefore the petitioner is not eligible for pension.

Learned counsel for the petitioner has however countered by arguing that once this Court allowed the plea of the petitioner for grant of regular pay-scale and the same was granted to him it would be deemed that the petitioner was working on regular basis even if no specific declaration in regard thereto was made. Once that is accepted then learned counsel for the petitioner has relied upon the judgment of this Court in the case of ***Kesar Chand vs. State of Punjab***, reported as ***1988(5) SLR 27***, wherein a Full Bench of this Court held that if a work-charge or temporary officiating service is followed by regularization then the entire service would be deemed to be qualifying service for the purpose of pension and gratuity.

I find considerable merit in the argument of learned counsel for the petitioner. Once the respondents had granted regular pay-scale to the petitioner in the year 1993 it does not lie in their mouth now to urge that the petitioner did not enjoy a regular status. There is no justification for granting regular pay-scale to an employee who was not enjoying a regular status. Once that is behind, us the judgment in Kesar Chand's case (supra)

would operate and the rule of law made therein would entitle the petitioner for pension.

In the circumstances, the petition is allowed. The respondents are directed to count the entire service of the petitioner under them as qualifying service for the purpose of pension and to calculate and pay him the arrears of pension forthwith along with interest @ 8% p.a. from the date/s the amount/s fell due till the date/s of payment.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 25, 2015

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**(AJAY TEWARI)
JUDGE**