

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

**CWP No.12010 of 2011 (O&M)
Date of decision: 10.04.2015.**

Didar Singh

..Petitioner

Versus

The State of Punjab and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. Amit Chopra, Advocate
for the petitioner.

Mr. P.P.S. Thethi, Addl. A.G., Punjab
for the respondents – State.

Daya Chaudhary, J.

CM-4774-CWP-2015

This application is for placing on record short affidavit of Sh. Rajnish Kumar, Deputy Director, Department of Social Security, Women & Child Development, Chandigarh.

Application is allowed and affidavit with the application is taken on record.

CWP-12010-2011

The prayer in the present petition is for issuance of a writ in the nature of mandamus directing the respondents to count the

service rendered by the petitioner in the Punjab Women and Children Development and Welfare Corporation towards pensionary benefits in view of judgment rendered in case **CWP No.10008 of 2006** titled as **'Ram Singh and another vs. State of Punjab and others'** decided on 23.02.2010 (Annexure P-5), which has further been upheld in LPA No.1122 of 2010 decided on 04.10.2010 (Annexure P-6) along with all consequential benefits arising therefrom.

Briefly, the facts of the case are that initially the petitioner was appointed as Driver in Punjab Women and Children Development and Welfare Corporation, Chandigarh (hereinafter called as 'PUNWAC') on 01.02.1980. As per the decision of State Government, the 'PUNWAC' was wound up and staff working with the PUNWAC was absorbed in the Department of Social Security and Development of Women and Children, Chandigarh. As per the notification dated 11.11.2004, it was decided that all the assets and liabilities of the erstwhile 'PUNWAC' shall be vested with the Government in the Department of Social Security and Development of Women and Children, Punjab. The petitioner was also absorbed on 06.10.2000 without any break in his service. Ultimately, the petitioner retired from service on 30.04.2007 on attaining age of superannuation. On retirement, his pensionary benefits were not released on the ground that the service rendered by him was less than 10 years.

Learned counsel for the petitioner submits that under similar circumstances, the employees working with Punjab Land

Development and Reclamation Corporation (hereinafter called as 'PLDRC') were declared surplus and were absorbed as Beldars in the Department of Agriculture Punjab. They were also denied the pension and other benefits on the same ground that their services with 'PLDRC' could not be counted for pensionary benefits. They filed CWP No.10008 of 2006, which was allowed by this Court on 23.02.2010 and directions were issued to the respondents to count the services rendered by the employees towards pensionary benefits. Learned counsel for the petitioner also submits that even the LPA No.1122 of 2010 against the said judgment of Single Bench was also dismissed on 04.10.2010. The petitioner made a representation in view of said judgment but still benefits have not been given to the petitioner. Learned counsel also submits that the case of the petitioners is squarely covered by the judgment passed in CWP No.10008 of 2006, which has further been upheld by LPA Bench.

Learned State counsel submits that for grant of pension minimum ten years government service is required whereas the petitioner has not completed the aforesaid period at the time of his retirement and he was not found eligible for grant of pension. Learned State counsel further submits that the petitioner was absorbed in the respondent-department with effect from 06.10.2000 and retired on 30.04.2007 and as such, he was having only six years of Government service at the time of his retirement. Learned State counsel also submits that the petitioner had worked in PUNWAC as driver from

01.02.1980 to 05.10.2000 and he was covered under CPF Scheme (Contributory Provident Fund Scheme). The matter regarding counting of service of employees of State Autonomous Bodies/Boards/Corporations/Universities for the purpose of pension and pensionary benefits in Government Departments has been decided by the Finance Department whereby, it has been stated that those employees of Punjab Government, who have served under PSUs, their previous service rendered in the PSUs is not countable for the purpose of pension/pensionary benefits payable by the Government.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the documents available on the file.

The case of the petitioner is that he is entitled for pension by counting his earlier service in view of ratio of judgment passed in CWP No.10008 of 2006 decided on 04.10.2010, which has further been upheld by the LPA Bench in LPA No.1122 of 2010. It is also the argument of learned counsel for the petitioner that there was no gap in joining the subsequent service. The petitioner and other similarly situated employees were retrenched and thereafter, absorbed with the Department of State Government as the 'PUNWAC' was wound up. An objection has been raised by the respondent-State that the petitioner was given an option for fresh appointment with a condition that post retiral benefits for the period of service rendered by him with 'PUNWAC' will not be paid to him. He was ordered to be appointed

afresh as a new entrant and as such, he was not entitled to avail benefits for the past service rendered by him.

As per case of the petitioner in the replication to the written statement filed by him, one Santosh Kumari, who was working as Senior Assistant in 'PUNWAC', was also absorbed as Senior Assistant under the Integrated Child Development Scheme on the same terms and conditions as were made applicable to the petitioner. She retired on 31.03.2011 and her past service with 'PUNWAC' was counted for the purpose of pension and other pensionary benefits. A copy of the order granting sanction for payment of said amount to her has also been placed on record with the replication. A number of other examples have also been cited in the counter reply to the additional affidavit filed by the respondents-State stating that one Ms. Neeta was initially appointed with 'PUNWAC' as Embroidery Technician on 06.12.1986 and continued there upto 06.01.1994. She was declared surplus but was subsequently absorbed in the Department of Social Security and Development of Women and Children, Punjab on 07.01.1994. Ultimately, she retired on 30.06.2005 on attaining the age of superannuation. Said Neeta was granted pension and other pensionary benefits by counting the previous service rendered by her with 'PUNWAC' as qualifying service. Similarly, one Malkiat Singh, who was appointed as Driver with 'PUNWAC' was also declared surplus along with the petitioner and was also retrenched but subsequently, absorbed in the Department of Social Security and

Development of Women and Children. Although said Malkiat Singh had expired but his wife Satinder Kaur was granted the family pension after counting the total services rendered by her husband with 'PUNWAC' as qualifying service.

Similarly, the case of the petitioner is also covered by decision of the Division Bench in case **Satbir Singh vs. State of Haryana, 2002(2) SCT 354.**

Accordingly, in view of the facts as mentioned above, the case of the petitioner is squarely covered by the decision in CWP No.10008 of 2006 titled as Ram Singh and another vs. State of Punjab and others wherein judgment rendered in CWP No.7120 of 2002 titled as **Smt. Krishna Khullar vs. State of Punjab and others** has been relied upon. The relevant portion of judgment of **Krishna Khullar's case** is reproduced as under: -

*“The question as to whether the service rendered by a government employee in a State controlled autonomous body, including the Boards/Corporations, etc., would count towards the total qualifying service for the grant of pension and other retiral benefits under the Civil Service Rules is no longer res integra. The petitioner has placed reliance upon a judgment of this Court dated 6.11.2001 rendered in CWP No.4055 of 1994 (**Kapur Kaur & Ors. v. State of Punjab & Ors.**) (Annexure P-4) as well as a judgment dated 16.11.1993 (Annexure P-7) passed in CWP No.17073 of 1991 (**Vijay Laxmi***

& Ors. v. State of Punjab & Ors.). In R.P. Singla v. State of Punjab, 2002(3) RSJ 504, the service rendered with Govt. of Punjab was ordered to be amalgamated with the service rendered in PSEB for the purpose of retiral benefits. Similarly, in CWP No.4007 of 1999 (Gurbax Singh v. U.O.I. & Ors.) decided on May 26, 2000, a Division Bench of this Court directed to count service as a govt. employee the service rendered with the Sports Authority of India for the purpose of retiral benefits.”

It is clear from the facts and law position as discussed above that the petitioner is entitled for pensionary benefits after including his earlier service with the service in corporation. Accordingly, the writ petition is allowed and respondents are directed to count the service rendered by the petitioner with the corporation towards pensionary benefits and to release all retiral benefits within a period of four months from the date of receipt of certified copy of this order.

However, it is made clear that in case, the petitioner is required to refund some monetary benefits drawn by him from the Corporation for the purpose of grant of pensionary benefits from the Government Department, the same shall be refunded. The petitioner is also entitled for interest @ 9% per annum on the delayed payment.

10.04.2015
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(DAYA CHAUDHARY)
JUDGE