

**CWP No.1475-2013**

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

**CWP No.1475-2013**

**Date of Decision:26.02.2015**

Ram Sarup

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH**

- 1) Whether Reporters of the 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 ?

Present: Mr. Baljinder Singh Ichhewal, Advocate,  
for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

**Paramjeet Singh, J. (Oral)**

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to count the period of service rendered by the petitioner on work-charge basis along with the regular service for pensionary benefits.

It is the case of the petitioner that he was appointed on work-charge basis on 03.10.1978. His services were regularized on 31.03.2003. He retired from the service of the respondents on 30.06.2010. The petitioner also served legal notice requesting the

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respondents for counting his work charge service along with regular service for pensionary benefits, but to no avail.

Upon notice of motion, the respondents put in appearance. Respondents no.2 and 3 filed written statement with the averments that the petitioner had served the answering respondents from 01.04.1993 to 30.06.2010 as Group 'D' Labourer. His services were regularized on 01.04.1993. Prior to his regularization, the petitioner was working as a daily wage labourer, not work-charge employee. The petitioner has already been granted the benefit for the service rendered by him with the answering respondents as Group 'D' labourer.

I have heard learned counsel for the parties and perused the record.

The issue involved in the present writ petition is no more *res integra*. In ***Kesar Chand v. State of Punjab & others, 1988(5) SLR 27***, it has been held as under:

*"Once the services of a work-charged employee have been regularised, there appears to be hardly any logic to deprive him of the pensionary benefits as are available to other public servants under Rule 3.17 of the Rules. Equal protection of laws must mean the protection of equal laws for all persons similarly situated. Article 14 strikes at arbitrariness because a provision which is arbitrary involves the negation of equality. Even the temporary or officiating service under the State Government has to be reckoned for determining the qualifying service. It looks to be*

*illogical that the period of service spent by an employee in a work-charged establishment before his regularisation has not been taken into consideration for determining his qualifying service. The classification which is sought to be made among Government servants who are eligible for pension and those who started as work-charged employees and their services regularised subsequently, and the others is not based on any intelligible criteria and, therefore, is not sustainable at law. After the services of a work-charged employee have been regularised, he is a public servant like any other servant. To deprive him of the pension is not only unjust and inequitable but is hit by the vice of arbitrariness, and for these reasons the provisions of sub-rule (ii) of Rule 3.17 of the Rules have to be struck down being violative of Article 14 of the Constitution."*

The aforesaid view was further reiterated by this Court in ***Nasib Singh vs. State of Punjab*** 1999 (4) SCT 233 (P & H), ***Joginder Singh vs. State of Haryana*** 1998 (1) SCT 795, ***Hazura Singh vs. State of Punjab*** 2004 (1) SCT 695 (P & H) and ***Kashmir Chand vs. Punjab State Electricity Board and others*** 2005 (4) S.C.T. 298. A conjoint reading of case law (supra) would reveal that it is by now well settled that period of service rendered on daily-wage/work-charge basis prior to regularization is liable to be counted for the purpose of gratuity and pension.

In view of above, it is held that services rendered by the petitioner on work charge/daily wage basis should be counted as

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qualifying service for pensionary benefits. Therefore, the respondents-department are directed to redetermine the pensionary benefits of the petitioner by taking into consideration his work charge/daily wage service. The consequential benefits accruing to the petitioner shall be granted to him within a period of two months from the date of receipt of certified copy of this order.

**26.02.2015**

parveen kumar

**(Paramjeet Singh)  
Judge**