

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

**CWP No.20574 of 2011**

**Date of Decision: 09.02.2015**

Budh Ram and others

....Petitioners

Vs.

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.**

Present:- Mr. Veneet Sharma, Advocate  
for the petitioners.

Mr. Roopam Aggarwal, DAG, Punjab  
for respondents No.1 and 2.

Mr. Harsh Chopra, Advocate  
for Mr. T.S. Gujral, Advocate  
for respondent No.3.

**Amol Rattan Singh, J (Oral)**

1. The issue involved in this case is as to whether the period of service of the petitioners in a work charged capacity with the Punjab Water Supply Sewerage Board and subsequently with the Municipal Corporation, Amritsar (respondent No.3), upon the service of such like employees being absorbed in the Municipal corporation, is to be counted towards grant of retirement benefits, including pension. It is admitted in the reply filed on behalf of respondent No.3 that the petitioners were absorbed in the service of the Municipal Corporation.

2. The learned counsel for the petitioners relies upon a judgment of a coordinate Bench of this Court, passed in CWP No.12646 of 2009, on

23.08.2010, titled as **Pritam Lal Vs. State of Punjab and others**, wherein an identical controversy, pertaining to the same Municipal Corporation, was in issue.

After considering the judgment of the Full Bench of this Court in **Kesar Chand Vs. State of Punjab and others**, 1988 (2) PLR 223, it was held as under:-

“Suffice it to say that in the light of the above-stated Full Bench decision rendered in **Kesar Chand's** case (supra), Rule 1(4) (d) ibid has no enforceability in the eyes of law nor can it be invoked to deny the legitimate benefit of “work-charged service” rendered by the petitioner immediate before regularization of his services.”

3. To deny the relief claimed by the petitioners, learned counsel appearing for the Municipal Corporation (respondent No.3), has made submissions as follows:-

i) That as per Rule 1(4) (d) of the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994, the service of work-charged employees would not be covered by the provisions of the said Rules and as such no retirement benefits are admissible to the employees for the said period;

ii) that despite the judgment rendered in CWP No.12646 of 2009 (supra), the aforesaid Rule is still on the statute book and it not having been struck down, the Corporation is bound to abide it; and

iii) that in any case, the service rendered in a work charged

capacity in the Punjab Water Supply Sewerage Board, prior to absorption of the petitioners in the Municipal Corporation, cannot count towards pensionary benefits from the Corporation.

4. Mr. Vineet Sharma, learned counsel appearing for the petitioners, on the other hand, points to what has been reproduced herein above from the judgment aforesaid, to submit that in such a situation the first two contentions of the respondents cannot in any case be sustainable, especially as the said judgment was rendered in the case of employees belonging to the Municipal Corporation, Amritsar, itself and the judgment has been actually implemented by the Corporation.

5. After having considered the arguments of both the learned counsel, in my opinion, the present writ petition deserves to succeed.

6. As regards the first two contentions of learned counsel for the respondents, it is seen that the judgment in Pritam Lals' case (supra) specifically holds that Rule 1(4) (d) of the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994, has no sustainability in the eyes of law, nor can it be invoked to deny legitimate benefit of work-charged service rendered by the petitioners immediately before their regularization. As such, even though this Court did not specifically strike down the said Rule, it was held to be unenforceable, which eventually would translate into the Rule not being sustainable in the eyes of law, in the light of the ratio of the Full Bench decision in Kesar Chands' case (supra),

wherein Rule 3.17A (ii) of the Punjab Civil Services Rules, Vol.II, which was to the same effect, as the Rule in question in the present case, was struck down.

In **Kesar Chands'** case, with regard to Rule 3.17A (ii), it was held substantively as under:-

“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 regularized 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 regularized, 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.”

Thus, contention to the contrary of learned counsel for the respondents, is not sustainable and is rejected.

Further, the above contention does not, in the opinion of this Court, lie in the mouth of respondent No.3, in view of the fact that they had actually implemented the judgment in **Pritam Lals'** case (supra), without any challenge having been brought (and if brought at least not successful), as no such judgment overruling the said decision by the coordinate Bench, has been shown to this Court.

7. As regards the submission made by learned counsel for the respondents, that the period of service in a work-charged capacity, rendered prior to absorption of the petitioners (and others like them), was not with the Municipal Corporation, Amritsar, the said argument is not sustainable

either, in view of the fact that it is admitted in the written statement that the service of the petitioners was actually absorbed in the Corporation.

It needs to be noted, as contended by learned counsel for the petitioners and not specifically refuted either in the written statement or otherwise, that the services of the employees (even in a work-charged capacity), working with the Punjab Water Supply Sewerage Board, were taken over, in view of the fact that work done by such employees in the Sewerage Board was work which was itself take over by the Corporation.

Thus, I find no reason to deny the petitioners the benefits of service rendered by them in the same capacity in the Punjab Water Supply Sewerage Board, prior to the work being taken over by the Municipal Corporation and their services absorbed therein.

Consequently, this petition is allowed and the respondents are directed to calculate the retirement benefits of the petitioners, after counting the work charged period of service rendered, both with the Punjab Water Supply and Sewerage Board and the Municipal Corporation, prior to their regularization.

All consequential benefits flowing from the above direction, would be paid to the petitioners within a period of three months from the date of receipt of a certified copy of this order, along with interest at statutory rates for the amount due from the provident fund account, and interest @ 7% per annum on all other heads as do not carry a statutory rate

of interest under the Punjab Civil Services Rules/Punjab Financial Rules, or any other Rules governing the Corporation.

**February 09, 2015**  
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**(Amol Rattan Singh)**  
**Judge**

Note:           1. To be referred to the Reporters or not?   Yes  
                  2. Whether the judgment should be reported in the Digest?