

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2519 of 2014 (O&M)

Date of Decision:- 24.08.2015.

Tara Chand

.....Petitioner

Versus

State of Haryana and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

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?

Present: Mr. J.S. Maanipur, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Jatinder Nagpal, Advocate for
respondent No.3.

P.B. BAJANTHRI, J.

In the instant writ petition, the petitioner is seeking directions to the respondents to grant him pensionary benefits in terms of Rule 9 of the Haryana Municipal Employees Pension and General Provident Fund Rules, 1993 read with Punjab Civil Services Rules, Volume-II while taking his service from 1.10.1993 to 1.9.2004 and to grant pensionary benefits in terms of Rule 3.17-A of Punjab Civil Services Rules Volume II.

2.) The petitioner joined service on daily wage basis with the erstwhile Municipal Committee, Buria on 1.10.1993. While working

as such, Municipal Committee Buria was merged into Municipal Committee Jagadhari as per Annexure P-2. Accordingly, the employees were shifted from the erstwhile Municipal Committee Buria to Municipal Committee, Jagadhari in public interest on 11.07.2000. In the year 2004, State Government introduced policy decision to regularize daily wage employees. Pursuant to the policy of the State, the petitioner's services were regularized on 01.09.2004 against the post of Sweeper (Safai Karamchari). He attained age of superannuation and retired from service on 31.10.2012. The petitioner's pensionary benefits have not been settled by the respondents on the score that he was a part-time employee, therefore, the service rendered as a daily-wager between 1993 to 2004 cannot be counted. The petitioner does not fulfill the minimum qualifying service of ten years for the purpose of grant of pensionary benefits. Feeling aggrieved in not extending the pensionary benefits to the petitioner, the present petition is filed.

3.) Learned counsel for the petitioner submitted that petitioner was appointed as a daily wager, though records speak that he is a part time employee. Wherever he has discharged the duties of of the post on full time basis. Thereafter, his services were regularized in the year 2004. It was further contended that had he been part-time daily wager, the respondent could not have regularized the services of the petitioner in the year 2004. Therefore, it is only on record that petitioner is part time worker. Otherwise, he

has discharged the duties of full time worker. Accordingly, his services have been regularized. Hence, he is entitled for pensionary benefits after counting the service rendered as a daily wager for the period from 1.10.1993 to 1.9.2004 as per Rule 3.17 A of the Punjab Civil Services Rules, Volume II.

4.) Per contra the respondent counsel vehemently contended that the petitioner is not entitled to the relief sought to count the service for the period from 1.10.1993 to 1.9.2004 on the score that he was only a part time employee. To that effect he has produced the necessary register to demonstrate that there is difference between part time and full time worker. Thus, the petitioner is not entitled for the relief sought. It was further contended that insofar as regularization of the petitioner in the year 2004 it may be due to error.

5.) Heard counsel for the parties. The question for consideration is whether the petitioner is entitled for counting the service rendered as a daily wager for the period from 1.10.1993 to 1.9.2004 or not. Even though record disclosed that petitioner was part-time worker, whereas reading of Annexure P-2 dated 14.7.2000 in which name of the petitioner appears at Serial No.13 do not indicate that the petitioner was a part time but he was engaged on DC rate. It shows that the petitioner is a full time worker. Petitioner is a class -IV employee and being illiterate. He might not have demanded Provident Fund given to the full time worker. However, it is undisputed that the petitioner has discharged full time having

regard to the regularization of his services in the year 2004 itself. Once the services of the petitioner is regularized in the year 2004 he is entitled for the benefits which were extended to daily wagers. In view of these facts and circumstances, the petitioner is entitled for pensionary benefits. The respondents are directed to count service of the petitioner from 1.10.1994 to 1.9.2004 in terms of Rule governing the pensionary benefits particularly Rule 3.17-A of the Punjab Civil Services Rules Volume II and settle his dues. The pensionary benefits shall be settled along with interest @ 9 % per annum within a period of 8 weeks.

6.) Accordingly, the writ petition is allowed.

(P.B. BAJANTHRI)
JUDGE

August 24, 2015.

sandeep sethi