

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

CWP-8064-2014
Date of decision : 21.04.2015

Ujjagar Singh

...Petitioner

V/S

Pepsu Road Transport Corporation

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikas Chatrath, Advocate
with Mr. Deepak Kumar, Advocate
and Mr. Liberhan, Advocate
for the petitioner.

Mr. Karan Singla, Advocate for the respondent.

JITENDRA CHAUHAN, J. (Oral)

1. This writ petition has been filed under Articles 226/227 of the Constitution of India is for quashing of order dated 19.12.2011 (Annexure P-6) and for the issuance of directions to the respondents to release the arrears and revised pensionary benefits w.e.f. the date of superannuation of the petitioner along with interest.

2. Learned counsel for the petitioner refers to Annexure P2 and states that Punjab Civil Services Rules, Punjab Govt. Employees (Conduct) Rules, 1966 are applicable upon the respondent. He further submits that case of the petitioner is squarely covered by Annexures P-2 and P-3.

3. Learned counsel for the respondent is unable to controvert

the statement made by the learned counsel for the petitioner.

4. I have heard the learned counsel for the parties.

5. In para 6 of judgment of **Sadhu Singh and others Vs. State of Punjab** passed in **CWP No.18841 of 2007** decided on 25.07.2008, it has been held as under:-

“6. We have heard learned counsel at some length and have perused the paper book with their able assistance. The question regarding grant of pension to the work charged, daily wage and ad hoc employees is no longer subject of controversy. If such an employee has been regularised in service then his whole service rendered on work charged, daily wage and ad hoc basis would qualify for pension and other retiral benefits. In that regard reference is made to Rule 3.17-A of the Rules. It is appropriate to mention that a Full Bench of this Court in the case of Kesar Chand v. State of Punjab, 1988 (2) PLR 223, has declared Rule 3.17 of the Rules as ultra vires of the Constitution, which was to the effect that only service rendered against a substantive permanent post would count as qualifying service. The observation made by the Full Bench read 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 employees 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 rule (ii) of rule 3.17 of the Rules have to be struck down being violative of Article 14 of the Constitution.”

6. Learned counsel for the petitioners pointed out that judgment in **Ved Parkash Vs. State of Punjab**, decided on 16.09.2010

has been upheld by the LPA Bench on 03.02.2011 and also by the Supreme Court while dismissing the SLP on 12.01.2012; which judgment has already been implemented by the PRTC.

7. Keeping in view the fact that the matter is squarely covered by Annexures P-2 and P-3, this writ petition is allowed with a direction to the respondent to decide the case of the petitioner in terms of Annexures P-2 and P-3 and further directed to pay interest @9% per annum on the delayed payment within four months after the receipt of certified copy of this order.

21.04.2015

ashok

(JITENDRA CHAUHAN)
JUDGE