

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

C.W.P. No. 20601 of 2014 (O&M)

Date of Decision:- 08.09.2016

Rajinder Singh and others

....Petitioners

vs.

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. S.S. Rana, Advocate and
Mr. S.K. Gupta, Advocate,
for the petitioners.

Mr. T.N. Sarup, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.

C.M. No. 9525 of 2016

Application is allowed as prayed for.

CWP No. 20601 of 2014

Petitioners have filed the present petition under Article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus directing the respondents to allow them to continue with General Provident Fund and Pension Scheme as applicable to the employees who joined service prior to 1.1.2004 as also prior to amendment of the Punjab Civil Service Rules, Vol.I, Part I (hereinafter referred to as 'the Rules'). A prayer has also been made for counting of service rendered by the petitioners on daily/work charge basis towards qualifying service for grant of pension and

other pensionary benefits in view of law laid down by the Division Bench judgment of this Court in CWP No. 2371 of 2010 titled as **Harbans Lal vs. State of Punjab and others**, decided on 31.8.2010.

Briefly, the facts of the present case, as made out in the present writ petition, are that petitioners were initially appointed on daily wage basis on different posts and dates between the years 1984 to 1996. Their services were regularized during the period 2009 to 2011. The employees working in the State of Punjab prior to 1.1.2004 were covered under the General Provident Fund Scheme (hereinafter referred to as 'GPF Scheme') and were entitled to pensionary benefits in accordance with the Punjab Government Rules. A new Re-structured Defined Contribution Pension Scheme was introduced by the Government of Punjab for its new entrants/employees w.e.f. 1.1.2004 vide instructions dated 12.12.2006. Vide notification dated 2.3.2004, Rule 1.2 of the Rules was amended by excluding the employees appointed after 1.1.2004 from the operation of Vol. II of the Rules. It was ordered vide letter dated 30.5.2008 that new Contribution Pension Scheme shall be applicable to daily wagers, who were in service prior to 1.1.2004 and whose services were regularized after 1.1.2004. A letter was also issued on 12.6.2008 directing therein to stop the deduction of GPF fund of daily wagers who were regularized on or after 1.1.2004 with immediate effect. Petitioners gave an undertaking for adopting new Re-structured Defined Contributory Pension Scheme introduced w.e.f. 1.1.2004. The past service rendered by the petitioners was not considered and who joined after 1.1.2004 were treated as new entrants.

Learned counsel for the petitioners submits that similarly

situated person, namely, Harbans Lal, who was initially appointed as daily wager prior to 1.1.2004. His services were regularized as per decision dated 31.8.2010 rendered in CWP No. 2371 of 2010 by the Division Bench of this Court. Learned counsel also submits that the case of the petitioners is also squarely covered by decision rendered in **Harbans Lal's** case (supra). Respondents-State of Punjab filed SLP against said judgment which was dismissed and thereafter review was also dismissed.

Learned State counsel opposes submissions made by learned counsel for the petitioners but he has not disputed the ratio of judgment in **Harbans Lal's** case (supra). The facts regarding initial appointment on daily wage basis and thereafter regularization after 1.1.2004 are not disputed. Even issuance of notification by Central Government for implementation of new Re-structured Defined Contributory Pension Scheme in place of GPF Scheme has also not been disputed.

I have heard learned counsel for the petitioners as well as learned counsel for the respondents-State and perused the documents available on the file.

The ratio of judgment passed in **Harbans Lal's** case (supra) and dismissal of SLP and review against said judgment has not been disputed by learned State counsel.

Accordingly, this petition is allowed and respondents are directed to consider the case of the petitioners in view of judgment rendered in **Harbans Lal's** case (supra). The necessary exercise be done within a period of three months from the date of receipt of certified copy of this

order. In case, the petitioners are still aggrieved in any manner, they are at liberty to avail the appropriate remedy in accordance with law.

September 08, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes