

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 25007 of 2013 (O & M)

Date of decision: 04.04.2016

Balraj Singh and others

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. S.S. Rana, Advocate,
for Mr. Sarvesh Kumar Gupta, Advocate,
for the petitioners.

Mr. APS Mann, Addl. A.G., Punjab.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 3832 of 2016

Application for placing on record Annexure A-1 is allowed,
subject to all just exceptions.

The same is taken on record.

CWP No. 25007 of 2013

The petitioner seeks the quashing of the order dated 01.08.2013
(Annexure P-8) whereby, the relief of counting daily wage service towards
qualifying service for grant of pension and allowing them to continue with
the GPF scheme for becoming eligible for pensionary benefits instead of
contributory scheme introduced w.e.f. 01.01.2004 was rejected. It is not
disputed that the Division Bench in *CWP No. 2371 of 2010, Harbans Lal
vs. State of Punjab and others* decided on 31.08.2010 (Annexure P-9)
decided the same issue and the SLP against the same was dismissed on

30.07.2012. The Review Application No. 2038 of 2013 has also been dismissed on 04.11.2015. Photocopy of the said order has been placed on record. Office to tag the same at the appropriate place. A direction has also been issued in the said review that the State is not to file any more SLPs against similar issues as considered by the High Court in the impugned judgment.

Respondent no. 2 has sought to distinguish the judgment of the Division Bench in *Harbans Lal's case (supra)* by submitting that the petitioners were wrongly regularized and the policies under which they were regularized were different from the ones which were subject matter of consideration in *Harbans Lal's case (supra)*.

In the opinion of this Court, the said reasoning is absolutely baseless and without any justification. The legal issue has been decided by the Division Bench and the conclusion arrived was that the daily wage service of the employees till the date of regularization was to be counted as qualifying service for the purposes of pension. The new restructured defined contribution pension scheme coming into force from 01.01.2004 had been introduced for the new entrants in the Punjab Government service from the said date and would not be applicable to persons who had been appointed on the daily wage service, as in the present case from the year 1988 to 1996 as per the details Annexure P-1. Accordingly, the petitioner would also be liable for the same benefits as has been given in the case of *Harbans Lal's case (supra)*. The relevant observations of the Division Bench read thus:-

“From the above discussion, we have come to the conclusion that the entire daily wage service of the

petitioner from 1988 till the date of his regularization is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. service prior to 1.1.2004. The new Re-structured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004, will not be applicable to the petitioner. The amendment made vide Annexure P-2 amending the Punjab Civil Services Rules, cannot be further amended by issuing clarification/instructions dated 30.5.2008 (Annexure P-3). The petitioner will continue to be governed by the GPF Scheme and is held entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Govt. Services prior to 1.1.2004.

In view of the above, the writ petition is allowed. Accordingly respondents are directed to treat the whole period of work charge service as qualified service for pension because accordingly to clarification issued on 30.5.2008 (Annexure P-3), the new defined Contributory Pension Scheme would be applicable to all those employees who have been working prior to 1.1.2004 but have been regularized thereafter. Let his pension and arrears be calculated and paid to him expeditiously, preferably within a period of three months from the date of receipt of copy of this order.

No order as to costs.”

Accordingly, the present writ petition is allowed. Order dated 01.08.2013 (Annexure P-8) is quashed and respondents are directed to ensure that the benefits given in *Harbans Lal's case (supra)* accrue to the present petitioners also.

04.04.2016

shivani

(G.S. SANDHAWALIA)
JUDGE