

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.25827 of 2013
Date of Decision:- 08.04.2016

Manjit Singh

....Petitioner

Versus

Kurukshetra University, Kurukshetra

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Namit Kumar, Advocate,
for the petitioner.**

**Mr. A.S. Virk, Advocate
for the respondent.**

RITU BAHRI, J. (Oral)

Petitioner by way of present petition is seeking directions to the respondent to count the Daily Wage/Adhoc Service rendered by him w.e.f. 20.03.1990 to 05.12.1996 towards retiral benefits and further to grant the benefit of Pension Scheme in lieu of CPF Scheme along with interest.

Petitioner is physically handicapped to the extent of 80% and he joined the service of the Kurukshetra University, Kurukshetra-respondent on 20.03.1990 as Securityman on daily wage basis. In the year 1993, his services were treated on adhoc basis and thereafter were regularized on 05.12.1996 as Securityman. The employees of the respondent's University were earlier governed by the CPF Scheme and a Pension Scheme was formulated which is known as "Kurukshetra University Employees Pension Scheme, 1997" and

has come into force w.e.f. 01.04.1995 (Annexure P-2). After coming into force the said Scheme, the petitioner superannuated on 30.04.2013. Petitioner had made a representation dated 22.08.2012 (Annexure P-3) to the Vice Chancellor and requested that he may be allowed to fill up a fresh application form for exercising his option to claim pension under the Pension Scheme. The claim of the petitioner has been rejected, vide letter dated 28.10.2013 (Annexure P-4) on the ground that his option has been exercised late.

The stand taken by the respondent in the written statement is that the petitioner had worked on daily wage/adhoc from 29.03.1990 to 05.12.1996, when his services were regularized thereafter he retired on 30.04.2013. The University in the year 2004 has sought the option of all the employees to exercise option for pension scheme. The petitioner was in service, did not exercise his option and he continued to be governed under the CPF scheme. Since, the petitioner did not submit any option in the year 2004, therefore, the representation has been rightly rejected. The option of similar situated employees has not been accepted by the department. Moreover, the the respondent has placed on record affidavit (Annexure R-2) which was given by the petitioner at the time of regularization of service, where he has stated that he will not claim any type of benefit of past service rendered on daily wage/adhoc basis including the payment of increment, seniority etc. The claim of the petitioners is that after regularization his entire service should be considered for pension. As far as the case of the respondent, the petitioner should have exercised his option in the year 2004. The respondent has not stated in the written statement that the option was sought from the petitioner by getting noted from him. In the absence of notice from the petitioner, he cannot be denied the benefit of pension scheme (Annexure P-2).

Reference can now be made to a judgment from Division Bench of this Court in case Harbhajan Kaur Vs. State of Punjab and another, 2004(2) S.C.T. 517 and further reference in case Bhakra Beas Management Board and others Vs. Hari Chand, 2012(2) SLR 404, whereby it was held that the daily wager employees would be entitled to reckon their service as qualifying service for the purpose of pension if it is followed by regularization.

After hearing the learned counsel for the parties, going through the record and above-said judgments, the present writ petition is allowed and the directions to the respondents to pass appropriate orders after considering the service of the petitioner w.e.f. 20.03.1990 to 05.12.1996 towards regular pension as per the Pension Scheme (Annexure P-2).

April 08, 2016
naresh.k

(**RITU BAHRI**)
JUDGE