

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

CWP No.3312 of 2015 (O&M)

Date of Decision: 21.4.2016

Kiran Bala and others

...Petitioners

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr.R.K.Arora, Advocate for the petitioners

Dr.Puneet Kaur Sekhon, Addl.A.G., Punjab

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

1. A co-ordinate Bench of this Court in **CWP No.4895 of 2014 (Dawarka Dass vs. The State of Punjab and others** and 11 connected writ petitions passed the order dated 27th January, 2016 which reads as under:-

“This order shall dispose of Civil Writ Petitions No.23854 of 2013, 4895, 5786, 18544 of 2014, 13246, 15882, 23046, 23540, 23557, 23601, 23723 and 23788 of 2015 as common question of facts and law are involved in all these petitions. However, for dictating this order, the facts have been taken from CWP No.4895 of 2014.

The petitioner seeks direction for counting the previous service rendered by him in the Govindwal Industrial & Investment Corporation towards his pension and other

admissible retiral benefits. The claim is made on the strength of the judgment of this Court in Civil Writ Petition No.9251 of 2002-Subhash Chander Chadha Vs. State of Punjab and others decided on 15.9.2005 which was upheld in LPA No.44 of 2006-State of Punjab and others Vs. Subhash Chander Chadha and another decided on 24.3.2009 (Annexure P/3). Reference was also made to other judgments passed by this Court pertaining to other Corporations. Challenge has also been made to instructions dated 16.9.2013 (Annexure P/25) whereby respondent no.1-State denied relief to similarly situated persons on the ground that judgment in Subhash Chander Chadha's case (supra) was in personam and not judgment in rem.

On 23.12.2015, the following order was passed by this Court:-

“On 14.10.2015, State Counsel had taken time by submitting that the decision is still pending consideration. A period of 2 months have gone by.

Prima facie, this Court is of the opinion that the matter stands squarely covered by the Division Bench of this Court in LPA No.44 of 2006 titled State of Punjab & others Vs. Subhash Chander Chadha & another, decided on 24.03.2009 and confirmed by the Apex Court. Another Division Bench of this Court in LPA No.604 of 2013 titled State of Haryana & another Vs. Shadi Lal Malik (deceased through his LRs) & others, decided on 14.10.2014, has taken a similar view. It has been specifically held that the employees working with the Corporation were under the administrative control of the State and the State could not draw any artificial distinction that the services rendered were not with the Government, as provided under the Punjab Civil Services Rules (Rule 3.8 and 3.12).

In such circumstances, let a decision be taken by respondent No.1, before the next date of hearing,

positively.

List on 27.01.2016.

Photocopy of this order be placed on the record of each connected case.”

In pursuance of the aforesaid order, counsel for the State has placed on record letter dated 27.1.2016 wherein the Department of Finance has withdrawn the instructions dated 16.9.2013 which are subject matter of challenge in the present writ petitions. Copy of the said letter is taken on record as Annexure 'A'.

Resultantly, keeping in view the above decision of the Finance Department, the present writ petitions have been rendered infructuous to the extent the challenge has been made to the instructions dated 16.9.2013 (Annexure P/25).

Accordingly, the State is directed to consider the cases of the petitioners for counting of their previous service with the Corporation keeping in view the judgment of this Court in Subhash Chander Chadha's case (supra) within three months from the receipt of a certified copy of this order. Where-ever the petitioners are found entitled for the said benefit, the competent authority will intimate the petitioners the amount along with 12% per annum interest, which is to be deposited as the employee's share of the Provident Fund/CPF and the same will be deposited by them within 4 weeks from the receipt of intimation from the competent authority. On the deposit of the amount, the competent authority shall grant the necessary benefits to the petitioners, within a period of one month, from the receipt of the amount.

With the above said observations, the present writ petitions are disposed of.

Photo copy of this order be placed on the record of each connected case file.”

2. Accordingly, the issue involved in this writ petition

is no longer *res integra* and is covered by the decision of this Court in **Subhash Chander Chadha vs. State of Punjab and others** (CWP No.9521 of 2002 decided on 15.9.2005) which was upheld in **LPA No. 44 of 2006, State of Punjab and others vs. Subhash Chander Chadha and another** decided on 24.3.2009.

3. As a result, this writ petition is disposed of in the same terms as CWP No.4895 of 2014. However, the period of one month fixed in the order dated 27.1.2016 in the aforesaid writ petition will be read from the date of receipt of a certified copy of this order.

21.04.2016
MFK

(RAJIV NARAIN RAINA)
JUDGE