

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

CWP No. 58 of 2015

Date of decision:-07.04.2016

Jagdev Singh

...Petitioner

versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. B.K. Bagri, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl.A.G, Haryana

Mr. J.S. Rana, Advocate for
Mr. Vinod S. Bhardwaj, Advocate
for respondent No. 5.

RITU BAHRI , J. (Oral)

The petitioner has filed this writ petition seeking direction to the respondents to release the retiral benefits i.e revised gratuity, leave encashment after counting the entire daily wage service

The petitioner was appointed on the post of Tube-well Operator on daily wages on 22.04.1985. On 01.04.1993, his services were regularized and he retired on 31.03.2014 after rendering about 29 years of service, after attaining the age of superannuation (P-1).

After retirement, the petitioner was given Rs.3,94,013/- for gratuity and Rs.7,407/- w.e.f 01.04.2014 was sanctioned. Thereafter, vide

letter dated 31.07.2014, Rs.20,737/- was again sanctioned for gratuity and vide letter dated 24.10.2014, amount of Rs.31,250/- was again sanctioned for gratuity and pension was revised from Rs.7407/- to 7965/-.

The grievance of the petitioner in the present writ petition, is that his daily wages service were not counted while granting the above said amount, despite the fact that the petitioner was absorbed vide order dated 04.10.2006 issued by Supdt. Engineer PWD Public Health Circle Ambala Cantt permanently (P-2).

Reference has been made to policy dated 17.03.2010 (P-4) for counting the daily wages service towards pensionary benefits, which was followed by another policy dated 07.02.2014 (P-5). The case of the petition for counting his daily wages service is pending with the respondents.

Reference has been made to similarly situated persons mentioned in para 10 of the petitioner, who were absorbed with the petitioner and their daily wage services were not counted. They filed CWP No. 6562 of 2009 and this Court allowed the writ petition on 21.10.2009 and SLP filed against this judgment was also dismissed by Hon'ble the Supreme Court on 07.05.2012 (P-7) and thereafter, their daily wages services were counted and orders in this regard are Annexure P-8 to P-10.

This issue has come up for consideration before this Court in ***Joginder Singh vs. State of Haryana and others, 1998(1) RSJ 671*** regarding counting of full service whereby this Court allowed the writ petition.

Once the similarly situated persons filed writ for counting of their daily wages service, which was allowed by this Court and SLP filed by the department was dismissed and in the contempt petition, petitioners of that writ petition were granted benefit by counting their daily wages service, petitioner is also entitled for the same.

In view of the above, the writ petition is allowed and direction is given to the respondents to consider the entire length of service of the petitioner w.e.f 22.04.1985 till the date of his retirement i.e 31.03.2014 for the purpose of pensionary benefits i.e gratuity, leave encashment etc and thereafter, release the payment to the petitioner @ 9% per annum w.e.f the date of retirement of the petitioner.

(RITU BAHRI)
JUDGE

07.04.2016

G Arora