

260

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

CWP No.7389 of 2015

Date of decision: January 15, 2016

Raghubir Chand

.....Petitioner

Versus

Bhakra Beas Management Board and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.S. Dhami, Advocate
for the petitioner.

Mr. Vikas Suri, Advocate
for the respondents.

SABINA, J

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of mandamus directing the respondents to count the contract service period rendered by him towards qualifying service for grant of pensionary benefits.

Learned counsel for the petitioner has submitted that the petitioner was appointed after due process of selection from 01.07.2000 to 27.09.2000, 01.07.2001 to 27.09.2001 and 01.07.2002 to 27.09.2002 as Chargeman Grade-II in regular pay scale on contract basis. Thereafter, petitioner was appointed on regular basis as Chargeman Grade-II (Wireless Operator) vide appointment letter dated 25.02.2003 (Annexure P-4). The minimum qualifying service for the purposes of pension and gratuity as per Rule 6.16 (2)

Chapter VI Volume II, Punjab Civil Services Rules, is ten years. In case, the service rendered by the petitioner on contract basis was treated as qualifying service, then the petitioner was entitled for pensionary benefits. Petitioner had retired on attaining the age of superannuation on 30.11.2012. In support of his arguments, learned counsel has placed reliance on ***Bhakra Beas Management Board and others versus Hari Chand*** and other connected cases, 2012 (4) RSJ 175, wherein, it has been held as under:-

“5. It is undisputed that the controversy in hand has already travelled up to Hon'ble the Supreme Court and the same was remanded back vide order dated 10.12.2009. Pursuant thereto various appeals/petitions including LPA No. 189 of 2004 (State of Punjab and others vs. Mukhtiar Singh, decided on 19.4.2011) came to be listed before the Letters Patent Bench of this Court (of which one of us, M.M. Kumar, J., was also a member). After noticing the provisions of Rule 3.17-A; substantive difference between a 'workcharged' employee and a 'daily rated' employee; Full Bench judgment of this Court rendered in the case of Kesar Chand (supra); and various other judgments of Hon'ble the Supreme Court, the Letters Patent Bench concluded that for the purposes of seniority, promotion or some other benefits, the service rendered on workcharge basis, ad hoc basis or daily rate basis may not be countable but the same could be counted as qualifying service for the purpose of pensionary benefits.”

Learned counsel for the respondents, on the other

hand has submitted that the petitioner was engaged on three occasions on contract basis for short duration of 89 days during the contingency arising on account of Monsoon season. Learned counsel has further submitted that the said period of service could not be counted as qualifying service for grant of pensionary benefits to the petitioner.

In the present case, admittedly, petitioner had been appointed on contract basis for 89 days w.e.f. 01.07.2000 to 27.09.2000 vide Annexure P-1, from 01.07.2001 to 27.09.2001 vide Annexure P-2 and from 01.07.2002 to 27.09.2002 vide Annexure P-3. Thereafter, petitioner was appointed as Chargeman Grade-II (Wireless Operator) on regular basis vide order dated 25.02.2003 (Annexure P-4).

Learned counsel for the petitioner has placed reliance on Rule 3.17-A (1) of Punjab Civil Services Rules (Volume-II) that all service rendered on establishment, interrupted or continuous, shall count as qualifying service. Said Rule reads as under:-

“3.17-A. (1) Subject to the provisions of rule 4.23 and other rules and except in the cases mentioned below, all service rendered on establishment, interrupted or continuous, shall count as qualifying service:-

(i) Service rendered in work-charged establishment.

(ii) Service paid from contingencies:

x x x x x x x x x x

(iii) Casual or daily rated service.”

In view of the above Rule, the service rendered by

the petitioner on contract basis from 01.07.2000 to 27.09.2000, 01.07.2001 to 27.09.2001 and 01.07.2002 to 27.09.2002 was liable to be counted while calculating the qualifying service of the petitioner towards pensionary benefits. A perusal of Annexure P-1 to Annexure P-3 does not show that the petitioner was being paid from contingency funds. Rather as per Annexure P-1 to Annexure P-3, petitioner had been appointed on contract basis for 89 days. Vide Annexure P-1 and Annexure P-2, petitioner was appointed on contract basis as a stop gap arrangement or till regular vacancy was filled up.

Accordingly, this petition is allowed. Respondents are directed to count the service rendered by the petitioner on contract basis from 01.07.2000 to 27.09.2000, 01.07.2001 to 27.09.2001 and 01.07.2002 to 27.09.2002 while calculating his qualifying service for pensionary benefits. Needful be done by the respondents within four months from the date of receipt of certified copy of this order.

**(SABINA)
JUDGE**

January 15, 2016
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