

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.9710 of 2015

Date of Decision: 22.02.2017

Hari Singh and others

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.Neeraj Sharma, Advocate for the petitioners.

Mr.Vandana Malhotra, Addl. AG. Punjab.

KULDIP SINGH J. (ORAL)

The petitioners have preferred this writ petition under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing respondents No. 1 to 5 to release the Pension alongwith all the retiral benefits thereby counting their daily wage services followed by regularization as per old pension scheme.

The short controversy involved in the present petition is that the petitioners were initially appointed as Daily Wage Employees, in the Conservative Forest Department now known as Department of Forest and Wildlife Reservation, Punjab between 1983 to 1990. The services of the petitioners were not regularized and were kept on daily wage basis despite several regularization policies introduced by the Govt. of Punjab in the year 2001, 2003 and 2006. It is only in the year 2011, when the services of the petitioners were regularized. The prayer in the present petition is for counting the daily wage services rendered by the petitioners for releasing the retiral benefits and also treating the same to hold that they are governed by Old Pension Scheme after treating their daily wage services as regular service. The Matter was considered by a Division Bench of this Court in

CWP No.2371 of 2010, titled as “*Harbans Lal Vs. The State of Punjab and others*”, decided on 31.08.2010, wherein, this Court has held as under:-

“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.”

The said judgment was challenged before the Apex Court by way of Review Petition (C) No.2038 of 2013 in *Special Leave Petition (C) No.23578 of 2012* and it is not denied that the SLP as well as Review Petition filed by the State of Punjab has been dismissed.

It being so, the matter is squarely covered by the authority of *Harbans Lal (supra)*, wherein, it was held that the work charge service of the petitioner shall be counted as qualifying service for grant of retrial benefits and the said service is to be counted and the petitioners are entitled to be governed by old pension scheme, which was applicable to those employees who have been working prior to 01.01.2004, but have been regularized thereafter.

In view of the above, the present petition is allowed.

Respondents are directed to take necessary follow up action on this aspect within a period of three months from the date of receipt of certified copy of this order.

(KULDIP SINGH)
JUDGE

22.02.2017
ANJAL

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No