

RSA No.3539 of 2014

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

Date of decision: 18.04.2017

RSA No.3539 of 2014

Mam Chand

...Appellant

Vs.

General Manager, Haryana Roadways Corporation, Rewari & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Nipun Vashist, Advocate, for the appellant.

Mr. Ram Tilak Redhu, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

As per earlier court directions, Mr. Lajpat Rai, General Manager, Haryana Roadways, Rewari is present in Court. The question posed in the order dated 21.11.2016 for answer in the form of a additional affidavit, the delay in filing of which had led to the enforcement of the presence of the Officer in this Court was; whether work-charged service can be counted towards grant of retiral benefits or not, meaning thereby, pension and pensionary service benefits. The answer to the short question is not what Mr. Rajpat Rai might put on affidavit or what he may say in Court by way of assistance, but is contained in a Full Bench decision of this Court in celebrated case Kesar Chand Vs. State of Punjab & others, 1988 (2) PLR 223; 1988 (5) SLR 27, wherein the Full Bench held that work-charged service followed by regular service will count towards pension and retiral benefits. Thus, the presence of Mr. Lajpat Rai is not necessary at all.

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The presence of the General Manager is also not necessary in Court proceedings since he is represented by the Law Officer of the Haryana Government who is present to assist the Court. Neither an affidavit is required to show light on the issue, which is no longer *res integra*. Rule 3.17 of the Punjab Civil Services Rules, Vo.-II was considered in *Kesar Chand's* case and in other large number of judgments the case has spawned. The rule in *Kesar Chand's* case has been confirmed by the Supreme Court and is the law of the land.

Consequently, the instant appeal succeeds and is allowed while setting aside the judgment and decree of both the Courts below. The suit is decreed. The plaintiff-appellant is held entitled to the declaration to the effect that period of work-charge service spent by him is countable towards qualifying service for pension and the retirement dues after re-fixation of pay w.e.f. 01.05.1998 i.e. the date when the services of the plaintiff were regularized as per Court orders dated 18.02.2006. He is also entitled to the interest @ 6% p.a. from the date of retirement i.e. 15.02.2008 and if the amounts are not paid within a period of three months, the interest will accrue thereafter @ 12% p.a. till payment.

18.04.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>