

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

CWP No.19019 of 2013 (O&M)

Date of decision: 30.07.2018

Balwinder Kumar

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. M.S. Rana, Advocate for the petitioner(s).

Ms. Deepali Puri, Addl. A.G., Punjab.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks issuance of a writ in the nature of certiorari quashing the impugned order dated 07.06.2013 (Annexure P-5) whereby the claim of the petitioner for allotting the GPF number instead of PRAN number was rejected by respondent No.3.

Learned counsel for the petitioner states that the case of the petitioner is squarely covered by the ratio of law laid down by this Court in CWP-2371-2010 titled as **Harbans Lal Vs. State of Punjab and others**, decided on 31.08.2010 (Annexure P-6).

On 23.01.2018, this Court had passed the following order:-

*“After hearing learned counsel for the parties at some length, the Court feels that the case of the petitioner is covered by the ratio of law laid down in CWP-2371-2010 titled as **Harbans Lal Vs. State of Punjab and others**, decided on 31.08.2010.*

Though, the reply categorically depicts that the case of the petitioner is not covered by the ratio of law laid down in Harbans Lal's case (supra), learned State counsel is directed to seek instructions in this regard so that the final view be taken in the matter.

Adjourned to 06.02.2018."

Learned State counsel though does not admit, however, she fails to rebut the submission made on behalf of the petitioner.

Heard.

The petitioner was appointed on the post of Helper in the respondent-Department on daily wage basis on 20.10.1986. His services were regularized on 15.03.2005. The sole grievance of the petitioner is that the respondents have rejected his claim for counting his daily wage service for the purpose of pensionary benefits etc.

In **Harbans Lal's** case (supra) a Division Bench of this Court observed as under:-

*"This view has been followed by a Division Bench of this Court in case of **Hans Raj Vs. State of Punjab and others**, 2005(3) RSJ, 262. In this case the Division Bench examined the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994. Vide instructions dated 8.1.1999, the State of Punjab had provided that since the Pension Rules has been made applicable in lieu of CPF, the period to be considered as qualifying for pension has to be restricted to the period for which the employee was contributing to his CPF. These instructions were held contrary to the Pension Rules by the Division Bench. The Division Bench held that the said instructions cannot substitute or supplant the substantive provisions of the*

Pension Rules. The petitioner was held entitled to count his entire service from 1962 to 1998 as qualifying service for the purpose of pension. The condition that qualifying service would commence from the date of contribution to the CPF, has been rejected by the Division Bench.

From the above discussion, we have come to the conclusion that the entire daily wage service of the petitioner from 1988 till the date of his regularization is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. service prior to 1.1.2004. The new Re-structured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004, will not be applicable to the petitioner. The amendment made vide Annexure P-2 amending the Punjab Civil Services Rules, cannot be further amended by issuing clarification/instructions dated 30.5.2008 (Annexure P-3). The petitioner will continue to be governed by the GPF Scheme and is held entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Govt. Services prior to 1.1.2004.

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 according 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.

No order as to costs.”

In view of the above, the present petition is allowed in terms of **Harbans Lal's** case (supra). The respondents are directed to release the admissible benefits in favour of the petitioner within a period of three months from the date of receipt of a certified copy of this order. .

30.07.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No