

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

**Civil Writ Petition No.30423 of 2018
Decided on : 01.12.2018**

Baldev Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Rahul Jaswal, Advocate
for the petitioner.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks a writ in the nature of mandamus under Article 226/227 of the Constitution of India for directing the respondents to count the daily wage/ad hoc service from 04.08.1997 to 10.04.2000. Resultantly, he prayed for re-fixation of his pension and to release the arrears of pension and other pensionary benefits with interest @ 12% per annum from the due date till actual realization.

The case of the petitioner is that he was appointed as Tractor Driver on daily wage basis w.e.f. 04.08.1987 and his services had been terminated without following the due process. He was reinstated by the Labour Court on 08.03.1991 with continuity of service with full back wages. During the pendency of the proceedings before the Labour Court, he had been re-employed on 01.07.1990 and in another dispute with the respondents/employer, it was held that on account of settlement he would not be entitled to back wages from 20.11.1989 to 01.07.1990, however, he will have the benefit of continuity of service from 04.08.1987. Reference was, accordingly, disposed of on 12.01.1995.

The petitioner had, thereafter, approached this Court by filing **CWP No.5431 of 1998** seeking regularization of service and resultantly, the same was allowed on 02.08.1999 (Annexure P-1) by the Division Bench. It is submitted that, thereafter, the petitioner has retired from service on 31.10.2017 on attaining the age of superannuation from the post of the Tractor Operator. It is his case that he has not been granted the benefit of service from 04.08.1987 to 10.04.2000 and other pensionary benefits by not counting the said period of service, as per the PPO Order dated 04.12.2017 (Annexure P-2).

Counsel submits that a legal notice dated 26.08.2018 (Annexure P-4) has been served upon the respondents, but no action as such has been taken on the same. It is further submitted that in case the legal notice is directed to be decided within a fixed time frame, the petitioner would be satisfied.

Accordingly, keeping in view the above and in view of the facts as such which are apparent from the record, this Court is of the opinion that no useful purpose will be served by calling upon the respondents to file reply.

Resultantly, the present writ petition is disposed of with the directions to respondent No.2 to decide the legal notice dated 26.08.2018 (Annexure P-4) within a period of two months from the receipt of the certified copy of this order. In case the petitioner is held entitled for the above benefits, the amount due to him be disbursed within a period of two months, thereafter. In case for other reasons, the petitioner is held

not to be entitled, then the said respondent shall pass a speaking order and shall supply a copy of the same to the petitioner, so that the petitioner can challenge the same in accordance with law.

The writ petition stands disposed of, accordingly.

DECEMBER 01, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

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