

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.8460 of 2017(O&M)

Date of Decision:-08.08.2018

Randhir Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Kanwal Goyal, Advocate for the Petitioner.

Mrs. Anju Sharma Kaushik, Deputy Advocate General, Punjab.

Mr. H.S. Sethi, Advocate for respondent nos.2 & 3.

JASWANT SINGH, J.(ORAL)

Petitioner was serving as a Welder on Work Charge basis in the Central Workshop Division, Amritsar under the PSPCL since 21.02.2000 against a regular sanctioned posts. His name had been recommended on numerous occasions for regularization, however, without any fruitful results.

It so transpires that upon closure of the Central Workshop Division, Amritsar the petitioner was transferred to Loko Centre/C.H.P. GGSTPP, Roopnagar against a sanctioned vacant post of Welder. The petitioner thus has around continuous 18 years of service on Work Charge basis as Welder. The prayer in the present case is for regularization in view of such a long period.

Upon notice, no reply had been filed, however, Mr. H.S. Sethi, Advocate appearing on behalf of PSPCL-respondent no.2 states that an order dated 27.07.2018 was passed regularizing the service of the petitioner w.e.f. 26.7.2011.

CM No.11065 of 2018 has been filed by the petitioner for placing on record the English translated copy of the aforesaid order dated 27.07.2018 as Annexure P-14. Copy of the same furnished to Mr. H.S. Sethi, Advocate.

CM allowed. Annexure P-14 is taken on record. Registry to place the same at appropriate place.

Since the petitioner had attained the age of 58 years and stood retired w.e.f. 31.12.2017, an apprehension was expressed with regard to the entitlement of the pensionary benefits as the regular service w.e.f. 2011 to 2017 might have been considered less than 10 years by ignoring the previous service on work charge basis. For seeking clarification the case was adjourned for today.

At the time of hearing counsel for the PSPCL states that subsequently order dated 03.08.2018 has been passed, whereby the claim for pensionary benefits is not denied, however, the petitioner has been directed to deposit the employee's share of EPF along with interest with the Department. The rate of interest however, has not been specified.

It cannot be disputed that in view of the Full Bench judgment of this court in **Kesar Chand Vs. State of Punjab AIR 1988 P & H 265** case the previous work charge period shall count towards pensionary benefits as also the petitioner has to be treated as appointee prior to 01.01.2004 keeping in view the settled law in **Harbans Singh & Ors. Vs.**

State of Punjab 2012 (3) S.C.T. 362. This Court feels that the interest rate on the amounts to be deposited by the employee should be 6%, which would serve the ends of justice.

The department is thus directed to calculate the amounts to be paid by the employee at the rate of 6% interest with the department within four weeks from today. The petitioner thereafter would deposit the demanded amount within 08 weeks and thereafter respondents within next three months would release the pensionary benefits due to the petitioner.

With the aforesaid observations and directions present case is disposed of. It is clarified that in case of any violation of the aforesaid directions the respondents would be liable to pay the interest at the rate of 12% on the outstanding amount to be recovered from the final/competent authority apart from being hauled up in contempt proceedings.

Copy of the order be given dasti to the parties on payment of usual charges.

(JASWANT SINGH)
JUDGE

August 08, 2018
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>