

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

(225)

CWP-2778-2016

Date of Decision: November 16, 2019

Ramsawroop

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.K. Bagri, Advocate, for the petitioner.

Mr. Charanjit Singh Bakhshi, Addl. A.G. Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that the claim of the petitioner for counting the daily wage service rendered by him before the regularization of his services starting from 01.07.1988 till 31.01.1996 has not been taken into account as a qualifying service for computing the pensionary benefits and the prayer made by the petitioner in this regard has been rejected vide impugned order dated 28.12.2015 (Annexure P-11).

As per the facts mentioned in the writ petition, petitioner was appointed on daily wage basis on 01.07.1988 and he continuously worked till 31.01.1996 as such, when his services were regularized by the respondents. Thereafter petitioner worked on regular basis till 31.07.2013, when he attained the age of superannuation and ultimately retired. After the retirement, pensionary benefits of the petitioner were only fixed taking his regular service into account and not the daily wage service, which the petitioner has rendered starting from 01.07.1988 till 31.01.1996. Petitioner made a request to the respondents to grant the benefit of the daily wage service as qualifying service for computing the pensionary benefits but the said request of the petitioner was rejected while giving reply to the legal

notice filed by the petitioner. Said reply (Annexure P-11) is under challenge in the present writ petition with the further prayer that the respondents be directed to grant the petitioner the benefit of daily wage service as a qualifying service for computing the pensionary benefits alongwith interest.

Though, the case of the petitioner had been rejected by the respondents but in the short reply, which was filed by the respondents, it is stated that the case of the petitioner has been reconsidered and the revised pension case has been prepared and sent to the authorities for granting the petitioner the benefit of daily wage service as a qualifying service for computing the pensionary benefits.

Thereafter, another affidavit has been filed by the respondents wherein, it has been stated that the benefit of daily wage service has already been extended to the petitioner and his pensionary benefits have been revised, details of the revised pensionary benefits have been mentioned in paragraph 3 of the said affidavit which are as under:-

“3. That the service benefit of daily wages services for the period 01.07.1988 to 31.01.1996 has been given to the petitioner (Sh. Ramswoop). Accordingly his case for revision of retiral benefits was submitted to Accountant General Haryana Chandigarh and same have been released by Sub Treasury Office Bawal Distt. Rewari, the details thereof is given as under:-

<i>(a) Amount of Death cum Retirement Gratuity already paid at time of retirement</i>	<i>Amount paid after counting daily wage services</i>	<i>Payment date</i>
<i>Rs.162593/-</i>	<i>Rs.69682/-</i>	<i>05.10.2016</i>
<i>Attached as Annexure R-1</i>		
<i>(b) Amount of Commutation already paid at time of retirement</i>		
<i>Rs. 137660/-</i>	<i>Rs.34021/-</i>	<i>06.10.2016</i>
<i>Attached as Annexure R-1</i>		

<i>(c) Amount of Pension already paid at time of retirement</i>	<i>Revised Pension</i>	<i>Arrear of Pension</i>
<i>Rs.3500/-</i>	<i>Rs.4367/-</i>	<i>amounting to Rs.69444/- w.e.f. 01.08.2013 to 30.09.2016 given on dated 17.10.2016.</i>

Attached as Annexure R-2”

The averment made by the respondents that the benefits have already been extended, has been admitted by learned counsel for the petitioner during the course of hearing.

Learned counsel for the petitioner raises a claim for the grant of interest on the delayed release of above stated benefits.

Learned counsel for the respondents objects to the same on the ground that once the respondents reconsidered the case of the petitioner and release the benefits immediately upon reconsideration, petitioner is not entitled for the grant of interest.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a settled principle of law settled by the Full Bench of this Court in **Kesar Chand Vs. State of Punjab, 1988 (5) SLR 27**, wherein, Rule 3.17-A of the Punjab Civil Services Rules has been interpreted to mean that the daily wage service rendered by an employee prior to the regularization has to be taken into consideration as a qualifying service for computing the pensionary benefits.

Learned counsel for the respondents is unable to explain as to why the benefit of the said judgment was not extended to the petitioner at the time when he retired on attaining the age of superannuation on 31.07.2013. Further, the petitioner has been forced to approach this Court

for seeking relief, which was initially denied to the petitioner despite the settled principle of law in Kesar Chand's case (supra). Once, the respondents have been unable to justify their action of not extending the relief of counting the daily wage service as a qualifying service at the time of retirement, which relief, the respondents have extended to the petitioner upon reconsideration, petitioner needs to be compensated by grant of interest.

Petitioner has been forced to approach this Court despite settled principle of law claiming the relief of counting his daily wage service as a qualifying service for computing the pensionary benefits.

Keeping in view the above mentioned facts and law, petitioner is held entitled to interest @ 9% per annum from 01.08.2013 till the arrears of the revised pensionary benefits were released to the petitioner. Let the interest under this order be computed by the respondents within a period of three months from the receipt of the certified copy of this order and the interest so calculated will be released to the petitioner within a period of one month thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

November 16, 2019
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No