

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-5419-2016

Date of Decision: 27.09.2019

Balbir Kumar (Since deceased) through LRs

... Petitioner

vs.

State of Punjab & Ors

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Gagneshwar Walia, Advocate
for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

ARUN MONGA, J.(ORAL)

Grievance of the petitioner, since deceased during the pendency of the writ petition, at the time of filing of the writ petition, was that he has not been accorded the benefit of judgment rendered by this Court in *CWP No.2371 of 2010* titled as *Harbans Lal Vs. State of Punjab and others decided on 31.08.2010 (Annexure P-6)* for the purposes of counting his previous service prior to 01.01.2004 for granting him the consequential benefits.

2. In the return filed on behalf of the employer/ Municipal Council, Batala, it is conceded that the petitioner was initially appointed in the year 1982 and he continued on casual basis/stop-gap arrangement from 24.11.1982 to 20.02.1983 and then from 22.02.1983 to 20.05.1983. It is, however, pleaded that the services of the petitioner were discontinued as he did not fulfill the requisite qualification for the post of Plumber.

3. The said stand of the Municipal Council, Batala is totally belied by its own Resolution dated 14.02.2005 contained at Annexure P-2 wherein, it has been recorded that the services of the petitioner ought to be regularized as he had been working on the post Plumber for the last 12 to 13 years on daily wages.

4. This recital of the said Resolution is contained in Para 4 of the writ petition in corresponding response in the written statement, the contents of the said Resolution have been admitted as being matter of record.

5. As regards non-admissibility of benefit of previous service prior to 01.01.2004, no explanation, let alone any plausible one, has been given in the written statement. The only stand taken therein is that services of the petitioner were since regularized on 19.05.2005, therefore, he is not entitled to the benefit of Punjab Government Instructions vide which the cut off date of giving the benefit of Old Pension Scheme was 01.01.2004.

6. The claim of the petitioner has been resisted on the ground that he being a new entrant whose services were regularized on 19.05.2005, he has been rightly given the benefit of New Restructure Defined Contribution Pension Scheme and, accordingly, all his retiral benefits have been disbursed to him.

7. The said stand of the Municipal Council, Batala is not sustainable in law in view of law enunciated by this Court in ***Harbans Lal 's case*** (supra).

8. Accordingly, writ petition is allowed in terms of the said judgment with all consequential benefits along with interest @ 6% per annum to be paid to the legal representatives of the petitioner from the date

of entitlement till actual disbursement.

9. Let needful be done within a period of three months from the date of receipt of certified copy of this order.

27.09.2019
smriti

(ARUN MONGA)
JUDGE

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