

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

LPA-754-2021 (O&M)
Date of Decision:-16.9.2021

Karnail Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Tribhuwan Singla, Advocate
for the appellant.

Mr. Navdeep Chhabra, DAG, Punjab.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

Appellant has filed this appeal against the order dated 5.2.2020
passed by the learned Single Judge in CWP-16591-2013, partly dismissing
the claim of the appellant with regard to grant of annual increments for the
period of work charge service.

The case of the appellant in brief is that he filed aforesaid civil writ petition for issuance of writ of mandamus directing the respondents to count his work charge service period w.e.f. 1.6.1983 to 30.6.1992 by condoning 34 days break as leave without pay for the purpose of grant of annual increments and for further counting the said service towards the grant of pensionary benefits.

The writ petition was contested by the respondents, who raised objection that the service rendered by the petitioner was not on work charge basis but on 'work authority duty' as per Rules 1.1 and 1.2 of Punjab PWD Specifications and under Rules 8.1 to 8.2 of Punjab B&R Manual of Order.

After considering the contentions raised by both the parties, the learned Single Judge partly allowed the writ petition while holding that work charge service rendered by the petitioner w.e.f. 1.6.1983 to 30.6.1992 shall be taken into consideration for the grant of pensionary benefits to him. However, the claim of the appellant for the grant of increments for the period he had served with the respondents on work charge basis was rejected by the learned Single Judge.

Being aggrieved by the part rejection of his claim, the appellant has filed the present appeal.

We have heard the counsel for the parties.

The counsel for the appellant has placed reliance on decision of this Court in **RSA No.3275 of 2009, Vijay Kumar vs. State of Punjab and others**, decided on **21.5.2010**, in support of his claim. The counsel for the appellant submitted that in the aforesaid case, the Regular Second Appeal of

work charge employee was allowed and he was held entitled to the regular increments from 17.9.1980 to 31.8.1992 during which period he served as work charge employee. The learned counsel for the appellant further prayed that the appeal be allowed accordingly.

The learned State counsel while refuting the contentions raised by the counsel for the appellant, submitted that the claim of the appellant for grant of annual increments for the period he had served on work charge basis was rightly declined by the learned Single Judge. In support of his arguments, the learned State counsel referred to judgement dated 17.9.2018 rendered by this Court in **CWP-6305-2009, Parmod and others vs. State of Haryana and others**, wherein it was held that the *ad-hoc* / work charge employees are not entitled to benefit of annual increments for the period of their *ad-hoc* / work charge service.

We have considered submissions made by the counsel for the parties.

The appellant has failed to bring to the notice of this Court any such instructions issued by the Punjab Government, which supports his claim for the grant of annual increments for the period he rendered work charge service.

The Hon'ble Supreme Court of India in **State of Haryana and others vs. Sita Ram and others, 2014(1) SCT 515**, while dealing with the issue-whether the work charge service of the respondents can be treated as regular service for the purpose of grant of benefit under the Haryana Civil Services (Assured Career Progression Rules) 1998, observed as under:-

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“In our opinion, the reasons recorded by the Division Bench of the High Court for granting relief to the respondents are legally untenable and the impugned orders are liable to be set aside because the same are based on erroneous interpretation of the expression “regular satisfactory service” used in Rules 5(1) and (2) of the 1998 Rules. The note appearing below Rule 5(2) makes it clear that the expression “regular satisfactory service” means continuous service counting towards seniority under the Haryana Government, including continuous service in the Punjab Government, before reorganisation, commencing from the date on which the government servant joins service after being recruited through the prescribed procedure or rules, etc., for regular recruitment in the particular cadre. It is, thus, evident that the rule making authority has laid emphasis on regular recruitment in accordance with the prescribed procedure or rules as a condition for treating the particular service as regular service. This is in total contrast to work-charge service which is always in work-charge establishment and is not preceded by regular selection made in accordance with any set of rules framed under the proviso to Article 309 of the Constitution or executive instructions. It is also not incumbent upon the competent authority to advertise the availability of work/post in the work-charge establishment or send requisition to the employment exchange as per the requirement of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959. Not only this, the conditions of appointment of work-charge employees are altogether different from those who are regularly recruited in accordance with the rules

framed under the proviso to the Article 309 of the Constitution or executive instructions issued by the State under Article 162 of the Constitution and whose service is treated as regular service.”

The Hon’ble Supreme Court accepted the appeals filed by the Haryana State and rejected the claims raised by the employees.

The similar view was taken by this Court in **Parmod Kumar’s** case (supra) which has been relied upon by the learned State counsel, wherein also the claim of the employees to count their *ad-hoc* service towards additional increments, higher standard pay-scale etc. was rejected on the ground that only regular service rendered by such employees is to be counted for claiming such rights strictly as per instructions issued by the State Government.

In the light of the settled position of law as has been discussed above, we are of the view that the appellant cannot take benefit of the judgment rendered by this Court in **Vijay Kumar’s** case (supra) which was even otherwise prior in time to the judicial pronouncement of the Hon’ble Supreme Court in **Sita Ram’s** case (supra).

In wake of the above, we do not find any illegality or perversity in the impugned order passed by the learned Single Judge. Accordingly, the present appeal is hereby dismissed being devoid of merits.

16.9.2021
Gaurav Sorot

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No