

**CM-4186-CWP-2020 in/and
CWP-2713-2017**

-1-

105+216

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

**CM-4186-CWP-2020 in/and
CWP-2713-2017
Date of Decision: 07.04.2022**

Rajpal

..... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naveen Daryal, Advocate,
for the applicant/petitioner.

Mr. S.K. Mahajan, Advocate,
for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-4186-CWP-2020:

For the reasons mentioned in the application, the same is allowed and the Service Book of the petitioner, received under the R.T.I., being Annexure P-5, is taken on record.

CWP-2713-2017:

In the present case, the prayer of the petitioner is for grant of the pensionary benefits with regard to the work charge service rendered by him from 05.11.1981 to 10.10.1988 keeping in view the settled principle of law.

initially joined as a T-mate in the year 1981 on work charge basis and continued working as such till 10.10.1988, on which date his services were regularized by the respondent-Corporation. The petitioner thereafter was promoted and he ultimately retired on 30.06.2016. While computing the pensionary benefits of the petitioner, only the service which he had rendered from 11.10.1988 onwards, i.e. only the regular service, was taken into account as a qualifying service and the service which he rendered from the year 1981 to 1988, i.e. the work charge service, was not taken into account as a qualifying service. The said act of the respondents is under challenge in the present petition.

Learned counsel for the petitioner argues that keeping in view the settled principle of law settled as laid down by the Full Bench of this Court in its judgment passed in the case of ***“Kesar Chand Vs. State of Punjab and others”***, AIR 1988 Punjab 265, which judgment was given after interpreting Rule 3.17(A) of the Punjab Civil Services Rules as applicable to the State of Haryana, which is also applicable upon the present petitioner, the work charge/daily wage service rendered by an employee is to be taken into account as a qualifying service while computing his/her pensionary benefits, in case the same is followed by the regular service.

Learned counsel for the petitioners further submits that thereafter, the Hon'ble Supreme court of India while passing judgment in **Civil Appeal No.4903 of 2009**, titled as ***“Dakshin Haryana Bijli Vitran Nigam Vs. Bachan Singh”*** held that the work charge/daily wage service rendered by an employee is to be taken into account while calculating his/her pensionary benefits and the judgment of this Court granting the said

benefit to the employee was upheld.

After notice of motion, respondents have filed the reply, wherein they have not disputed the fact the petitioner discharged the work charge service from the year 1981 to 1988 as a T-mate but the only objection raised by them is that the said service was rendered in another Wing of the respondent-Corporation.

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

As per the settled principle of law laid down in the judgment passed in **Kesar Chand's case** (supra), the daily wage/work charge service rendered by an employee prior to the regularization of his/her service is to be taken into account while computing his/her pensionary benefits and the said judgment is very clear in this regard, which interprets Rule 3.17(A) of the Punjab Civil Services Rules, which is applicable to the State of Haryana. It is also not a disputed fact that the same Rule is applicable upon the present petitioner as well.

That being so, the work charge service, which the petitioner has rendered from the year 1981 to 1988, cannot be ignored as a qualifying service while computing his pensionary benefits. Further, it is not a disputed fact that the services which the petitioner had rendered from the year 1981 to 1988 on work charge basis were regularized by the respondent/Haryana State Electricity Board on 10.10.1988. That being so, the objection being taken by the respondents that the services rendered by the petitioner were in another Wing of the respondent-Corporation is of no use as the said services were regularized by the respondents themselves.

Keeping in view the above, the claim as being raised by the petitioner in the present petition is squarely covered by the judgments

passed in **Kesar Chand's case** (supra) as well as **Bachan Singh's case** (supra).

In view of the above, the present petition is allowed of and the respondents are directed to grant the petitioner the benefit of work charge service rendered by him from the year 1981 to 1988 and his pensionary benefits be re-calculated by the respondent-Corporation keeping in view the same and the difference be paid to the petitioner.

As the principle of law had already been settled on the date when the petitioner retired, i.e. on 30.06.2016, and rather than applying the settled principle of law upon the petitioner, he was forced to approach this Court and the benefits for which the petitioner was entitled for has been withheld by the respondents without any valid justification, the arrears concerned to be extended to the petitioner, which will be computed under this order, will also carry interest at the rate of 6% per annum from the date the petitioner retired till the payment of the same.

Let this order be complied with by the respondent-Corporation within a period of two months from the date of receipt of the copy of this order.

07.04.2022
Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes
2. Whether reportable : No