

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-27660-2018

Date of Decision :08.03.2022

Gurmail Kaur

..Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amrinder Pratap Singh, Advocate
for Mr. Gurnam Singh, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. A.G. Punjab.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed for the grant of pensionary benefits to the petitioner under the Old Pension Scheme by taking into consideration the service, which the petitioner had rendered from 01.08.1980 till 07.11.2005.

As per the averments made in the writ petition, the petitioner joined as Class-IV employee (Sweeper) on part time basis in Government Middle School, Borhigh Kalan on 01.08.1980 and continued working as such for a period of fifteen years till her service was regularised by the respondents. After regularization of her service, petitioner continued working as such till she attained the age of superannuation on 30.06.2014 and was retired from service. Learned counsel for the petitioner argues that

the petitioner has been denied the pensionary benefits in respect of the

service rendered by her with the respondent-department on two accounts. Firstly, that even if the case of the petitioner is considered under the Old Pension Scheme, she does not have ten years of required service for the grant of pension when counted from the date of regularization of her service and even otherwise, Old Pension Scheme is no longer available with effect from 1st January, 2004 and as the service of the petitioner was regularised in the year 2005, the petitioner will be covered by the New Pension Scheme and not by Old Pension Scheme.

Learned counsel for the petitioner argues that the reasons, which have been given by the respondents to deny the petitioner pensionary benefits, have already come for consideration before this Court in the case of one Jeewan Lata, who was also working on part time basis initially and her service was later on regularised but, she was denied the pensionary benefits on the same grounds, which action of the respondents was challenged by the said Jeewan Lata by way of filing CWP-10238 of 2017 titled as **Jeewan Lata vs. State of Punjab and other**, which was decided by this Court on 10.05.2019. Learned counsel for the petitioner submits that this Court while passing order in Jeewan Lata's case (supra) held that a part time service, which is continuous in nature for a period of more than a decade, cannot be treated as stop gap arrangement and has to be taken into consideration as qualifying service while computing the pensionary benefits. The second reason that the New Pension Scheme will be applicable in the case of employees, who were regularised after 01.01.2004 is not a valid reason, keeping in view the judgment of the Division Bench of this Court in CWP No.2371-2010 titled as **Harbans Lal vs. State of Punjab**

and others decided on 31.08.2010, which has attained finality up to the

Hon'ble Supreme Court of India in which it has been held that the employee working with the department prior to 01.01.2004 though, his/her service may have been regularised after 01.01.2004 are to be governed by Old Pension Scheme and, therefore, case of the petitioner is squarely covered in her favour as per the decision in Jeewan Lata's case (supra).

Learned State counsel very fairly submits that reasons, which have been invoked in the present case denying the pensionary benefits to the petitioner, have already been considered by this Court in Jeewan Lata' case (supra) and have been found to be invalid reasons and the case of the petitioner is squarely covered by Jeewan Lata's case (supra).

Keeping in view the above as both the parties have agreed that the present petition is covered by the decision of this Court in **Jeewan Lata' case (supra)**, the present petition is also disposed of in terms of the said order.

March 08, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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