

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

CWP-2529-2023
Date of decision:- 08.02.2023

Daya Nand

...Petitioner

Versus

The Director, Welfare of Schedule Castes and Backward Classes
Department and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bharat Bhushan Sharma, Advocate for the petitioner.

SUVIR SEHGAL, J. (Oral)

Instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order/decision dated 28.12.2022, Annexure P-7, vide which, adhoc service rendered by the petitioner has not been counted for the purpose of pension and retiral benefits.

Counsel for the petitioner submits that the petitioner was appointed as peon on ad hoc basis, vide appointment letter dated 28.10.1991, Annexure P-1, and was continuously serving with respondent No.2. His service was regularised w.e.f. 01.10.2003, vide an office order dated 17.08.2004, Annexure P-2. Counsel submits that the petitioner retired from service on 28.02.2022, but the service rendered by him on ad hoc basis, prior to regularization, has not been taken into account for the purpose of retiral benefits. Counsel submits that a legal notice, Annexure P-5, was served upon the respondents, and vide communication dated 28.12.2022, Annexure P-7, respondents have neither considered the request made by the petitioner, nor rejected it.

By placing reliance upon judgments of this Court in *Kesar Chand Versus State of Punjab, 1988 (5) SLR 27, Hari Chand Versus Bhakra Beas Management Board, 2005 (4) SLR 215* as well as judgment rendered by this Court in *CWP-14381-2001 decided on 16.01.2023 titled as Satpal Singh and others Versus State of Haryana and others*, counsel submits that the said period is liable to be counted towards pensionary benefits.

Notice of motion.

On asking of the Court, Mr. R.K.S.Brar, Additional Advocate General, Haryana, accepts notice on behalf of the respondents. He has supported the communication, Annexure P-7.

Given the nature of order being passed and keeping in view the settled legal position, this Court does not deem it necessary to call for a response from the respondents. Having heard counsel for the parties, this Court is of the view that non-consideration of request of the petitioner is unjustified. Noticing the indisputable position, respondents are directed to consider the case of the petitioner in the light of the judgment of the Full Bench of this Court in *Kesar Chand's* case (supra) and pass an administrative order, within a period of 4 months from the date of communication of copy of this order.

In case, respondents finds that the petitioner is not entitled to the benefits claimed, reasons be assigned in the order.

Petition is disposed of.

08.02.2023

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No