

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

120

CWP No.1987 of 2023
Date of decision:02.02.2023

Dalbir Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. R.S.Sangwan, Advocate
for the petitioner.

SUVIR SEHGAL, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing impugned order/communication dated 04.10.2022 (Annexure P-11) passed by respondent No.3, whereby, respondents declined to count the services rendered by the petitioner from the initial appointment till his retirement and grant him benefit of old pension scheme with consequential benefit alongwith arrears and interest.

Counsel for the petitioner submits that the petitioner was engaged on daily wages w.e.f. 02.01.1997 as a Chowkidar. He submits that services of the petitioner were dispensed with and he raised an industrial dispute. Vide award dated 16.01.2001, Labour Court, Panipat accepted the reference and directed his reinstatement with continuity in service alongwith full backwages from the date of demand notice. Counsel submits that the petitioner has been in continuous service and has been regularized w.e.f.

29.06.2014. According to counsel, petitioner retired on 31.12.2022 on attaining the age of superannuation. Counsel submits that aggrieved of the non-consideration of the services rendered prior to regularization, a legal notice dated 05.09.2022, Annexure P-10, has been served upon the respondents, who vide impugned communication, Annexure P-11, have declined to consider the request. Counsel for the petitioner has placed reliance upon a Full Bench judgment of this Court in **Kesar Chand Vs. State of Punjab and others**, AIR 1988, P&H 265 as well as Division Bench judgments of this Court in CWP No.2371 of 2010 titled as **Harbans Lal Vs. The State of Punjab and others**, decided on 31.08.2010 and LPA No.426 of 2016 titled as **State of Harana and others Vs. Zile Singh**, decided on 18.03.2016 to submit that daily wage service is required to be taken into account for grant of pensionary benefits.

Notice of motion.

On asking of the Court, Mr. R.K.S.Brar, Addl.A.G., Haryana accepts notice on behalf of the respondents. He has supported the impugned communication.

Given the nature of order being passed, this Court does not deem it necessary to call upon the respondents to file a return.

Legal proposition is well settled and has attained finality upto the highest Court. Despite this fact, cases are repeatedly coming up before this Court where respondent-authorities are not considering the services rendered by the employees on ad-hoc/daily wages/contractual basis as

qualifying service for grant of pension.

Without delving into the matter any further, reasoning given by the respondents in the communication dated 04.10.2022, Annexure P-11 is set aside and writ petition is disposed of with a direction to the respondents to consider the matter in the light of judgments relied upon by counsel for the petitioner. In case petitioner is not found entitled to the claim, an order be passed, within a period of four months, assigning reasons for rejection.

February 02, 2023

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes