

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

CWP No.17360 of 2018

Date of Decision : 20.03.2023

Rajpal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. R.S. Bajaj, Advocate
for the petitioner.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J.

Petitioner herein prays for issuance of a writ in the nature of mandamus directing the respondents to count the service rendered by the petitioner as SPO on daily wages prior to his regularization as Constable towards qualifying service for the purpose of pay fixation, seniority etc. for the post of Constable.

2. Petitioner was initially appointed as SPO after following due process of selection pursuant to public notice, on 15th of September, 1993. Later on being fully qualified he was absorbed as Constable in the order dated 20th of April, 1998 (Annexure P-2). Petitioner thus prays that service rendered by him as SPO prior to his regularization as Constable be counted as qualifying service for other service benefits.

3. Counsel for the petitioner at the outset confines his prayer to counting the service rendered by the petitioner as daily wager as SPO prior to date of regularization as Constable in terms of judgment rendered by Division Bench in case of '**Harbans Lal vs. the State of Punjab and others**' – CWP No.2371 of 2010, decided on 31st of August, 2010 and further relied upon judgment passed in CWP No.24472 of 2015 titled as '**Constable Rajesh Kumar and others vs. State of Punjab and others**', decided on 7th of January, 2016.
4. Mr. Kang is not in position to dispute the aforesaid fact.
5. Similar issue came up before Co-ordinate Bench of this Court in the case of **Constable Rajesh Kumar and others vs. State of Punjab and another** (supra) wherein it was held as under :-

“Mr. Manuja, appearing for the State on instructions from the department, makes statement that this matter indeed is covered by the ratio of the decision of the Supreme Court rendered in **State of Punjab v. Harbans Lal**, which order rejects the review application preferred by the State of Punjab from the decision in the special leave petition delivered on July 30, 2012 which in turn affirms the view of this Court on the right of daily wage/work-charged/ad hoc employees for counting pre-regularization service towards period qualifying for pension and other benefits even though they were regularized after 1.1.2004 when the old pension scheme was disbanded to make place for the New Defined Contributory Pension Scheme for fresh employees of the State Government recruited after 1.1.2004. This Court has even subsequently reiterated and applied the principle in the rulings, the texts of which have been placed on record at Annexures P-3, P-4 and P-5 [vide judgments dated 31.8.2010, 14.7.2014 and 10.10.2014 respectively].

As a result, no further orders are required to be passed in this

petition since the case is covered on all fours by the aforesaid decisions; except to hold that the pension cases of the petitioners will be governed by the verdict delivered on July 30, 2012 in *Harbans Lal's case* and the order passed in review application by counting the entire period of previous service and the benefits thus accruing would be granted to the petitioners accordingly without any unreasonable delay except to account for the period required to accommodate the time which may be spent in completing the necessary formalities in each and every case. With this, the petition stands allowed and is disposed of in the above terms.”

6. Trite it is that once State itself has given a concession regarding the matter being covered for one set of employees it is impermissible for the State to contend that the said decision would be applied only to the applicants thereof and not to the others although they are similarly situated. Reference can be made to law laid down by Apex Court in the case of '**Lt. Governor of Delhi and others vs. Constable Dharampal and others'** (1990)4 SCC 13.

7. In view of the above, the present writ petition is allowed in terms of directions issued in the case of **Constable Rajesh Kumar** (supra). The entire service rendered by the petitioner as SPO shall be counted as qualifying service towards pension.

March 20, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No