

2023:PHHC:056376

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

CWP-22117-2017 (O&M)
Date of decision: 20.04.2023

Subeg Singh

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Hardik Ahluwalia and
Mr. A.S.Manaise, Advocates for the petitioner

Mr. Navdeep Chhabra, Sr. DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The petitioner prays for issuance of a writ in the nature of Mandamus to direct the respondents to calculate his entire work charge service w.e.f 01.08.1995 till the date of his regularization i.e 14.08.2014 towards calculating the service for the purpose of retiral benefits in terms of the law enunciated in **Kesar Chand vs. State of Punjab 1998 (5) SLR 25 (FB)**.

2. While filing the reply, the State has taken a stand that the petitioner was reinstated in service by the Industrial Tribunal vide award dated 14.02.2005. Hence, the petitioner's services have been regularized from 16.09.2005 by treating him as a new entrant.

3. On the other hand, the learned counsel representing the petitioner relies upon a Division Bench judgment in **Harbans Lal vs. State of Punjab and others 2012 (3) SCT 362** to contend that the petitioner's work charge service followed by regular service after

regularization is required to be counted towards the retiral benefits and hence, the petitioner's service shall be governed by the old pension scheme and not by the contributory pension scheme, which was introduced for the first time w.e.f 01.01.2004. This Court has considered the submission of the learned counsel representing the parties. In fact, the dispute in the present case is squarely covered by the judgment passed in **Harbans Lal's case (supra)**. It has been held by the Division Bench that a work charge employee, who was recruited before 01.01.2004 and regularized subsequently, shall be governed by the old pension scheme.

4. In view of the aforesaid facts and discussion, the writ petition is allowed. The respondents are directed to provide the General Provident Fund number to the petitioner and thereafter take consequential steps in accordance with law, within a period of one month, from today.

5. All the pending miscellaneous applications, if any, are also disposed of.

20.04.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE