

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-16626-2021 (O&M)
Date of decision: 02.08.2024

Amarjeet Singh
....Petitioner
Versus
State of Haryana and Others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Balwinder Singh Sudan, Advocate for the petitioner
Mr. Tapan Kumar, DAG Haryana

AMAN CHAUDHARY. J. (ORAL)

1. The prayer in the present petition is for directing the respondents to release the pension as well as the unpaid balance of other retiral dues and salary of the petitioner.
2. Learned counsel submits that the petitioner was appointed as Driver in Haryana Roadways on contractual basis on 12.02.2002 and his services were regularised on 13.02.2006, however, New Pension Scheme was made applicable on account of the fact that, it came into operation w.e.f. 01.01.2006. He retired on 30.04.2020, after attaining the age of superannuation. The claim of the petitioner is covered by the judgment passed by this Court in the case of **Mohinder Singh and Others vs. State of Haryana and Others** in CWP-14160-2018, decided on 30.01.2023, against which no LPA has been filed, which relating to the same Department, wherein also the petitioners were appointed on contract basis in the year 2002 and regularised after 01.01.2006. Relevant paras whereof read thus:

“xxx xxx xxx
Admitted position is that services of petitioners Nos. 1 to



7 were regularized after 01.01.2006, whereas petitioners No.8 to 10 were regularized before the said date. By virtue of notification dated 04.12.2008, Annexure P-6, Government of Haryana introduced Haryana New Pension Scheme (NPS), 2008 (for short “the NPS”) with effect from 01.01.2006. The short question for determination is as to whether the services rendered by the petitioners prior to regularization are to be counted towards payment of pensionary benefits and in case the petitioners have been regularized after 01.01.2006, the benefit of continuous service rendered can be given to them.

Matter stands settled in various judgments passed by the Court. Hon’ble Supreme Court in **Prem Singh Versus State of Uttar Pradesh and others (2019) 10 SCC 516**, has held that the services rendered prior to regularization in the capacity of work charged employees, contingency paid employees or on non-pensionable establishment shall count towards qualifying service, even if such service is not preceded by temporary or regular employment in the pensionable establishment.

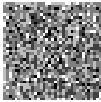
A Full Bench of this Court in **Kesar Chand Versus State of Punjab 1988 (2) PLR 223**, while striking down Sub-rule (2) of Rule 3.17-A of Punjab Civil Service Rules Vol. II held that once the services of a work charged employee, have been regularized, there appears to be hardly any logic to deprive him of pensionary benefits. It has been further held that even temporary or officiating service under the Government has to be reckoned for determining the qualifying service.

A Division Bench of this Court in **Harbans Lal Versus State of Punjab and others 2012 (3) SCT 362** has concluded as follows:-

“From the above discussion, we have come to the conclusion that the entire daily wage service of the petitioner from 1988 till the date of his regularization is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. service prior to 1.1.2004. The new Restructured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004, will not be applicable to the petitioner. The amendment made vide Annexure P-2 amending the Punjab Civil Services Rules, cannot be further amended by issuing clarification/instructions dated 30.5.2008 (Annexure P-3). The petitioner will continue to be governed by the GPF Scheme and is held entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Govt. Services prior to 1.1.2004.”

SLPs challenging this judgment as well as the review applications filed by the State of Punjab, have been dismissed by the Apex Court.

In view of the above settled position, petitioners are held



entitled to count the entire service rendered by them on contract basis for the purposes of grant of pensionary benefits.
Petition is disposed of with a direction to the respondents to pass appropriate orders after treating the service rendered by the petitioners on contract basis prior to regularization as qualifying service for the purposes of pension. As some of the petitioner(s) have retired, it is directed that arrears of pension payable to them, shall be confined to a period of three years prior to the date of this order and the amount due be paid to them within a period of four months from the date of this order.”

- 3. Learned State counsel has not been able to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.
- 4. In wake of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Mohinder Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

02.08.2024
M.Kamra

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