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

**CWP-24653-2016 (O&M)
Date of Decision:07.05.2024**

Om Parkash

.....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Naveen Kumar, Advocate and
Mr. Arman Goyal, Advocate for the petitioner.

Ms. Aditi Sharma, Advocate for
Mr. C.S. Bakshi, Advocate for respondents.

JASGURPREET SINGH PURI J.(Oral)

CM-17383-CWP-2023

Present application has been filed for placing on record
certain documents.

Application is allowed as prayed for subject to all just
exceptions.

The accompanying document is taken on record as Annexure
P-7.

Main case

1. The present petition has been filed under Article 226 of the
Constitution of India seeking issuance of a writ in the nature of
Mandamus for issuance of directions to respondents to count the services



of the petitioner rendered as a daily wager w.e.f. 01.01.1987 (date of initial appointment of the petitioner) till 02.09.1994 (date of regularization of services of petitioner) towards pensionary, retiral and consequential benefits alongwith interest from the date of accrual till the date of realization.

2. Learned counsel for the petitioner submitted that the petitioner was appointed on daily wage basis in the department of respondents-Uttar Haryana Bijli Vitran Nigam Limited (hereinafter to be referred to as 'Nigam') in the year 1987 and thereafter his services were retrenched by the respondents, this action of the respondents-Nigam was challenged by the petitioner by approaching in the Court of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak. An award dated 11.06.1992 (Annexure P-7) was passed in which the petitioner was directed to be reinstated with continuity of service with full back wages w.e.f. 01.01.1989. He further submitted that thereafter, aforesaid award was challenged by the respondents by filing CWP No.10457 of 1992, and the same was decided on 06.11.1996 by which the aforesaid back-wages were reduced from full back wages to the extent of 40% which have been paid to the petitioner. He further submitted that the petitioner continued in service and thereafter while he was working as a daily wager even after reinstatement, he was regularized on 03.12.1996 by the respondents-Nigam w.e.f. 02.09.1994. He further submitted that aforesaid factual position is not even disputed by respondents in their written statement. He further contended that only grievance of the petitioner is that once he



was working on daily wage basis and his services were regularized then his earlier services were required to be counted for the purpose of pensionary as well as retiral benefits in view of the judgment passed by Full Bench of this Court in ***Kesar Chand vs. State of Punjab and others, 1998 AIR (Punjab and Haryana) 265*** whereas, as per the reply filed by the respondents-Nigam, his aforesaid service on daily wage basis has not been counted towards pensionary benefits which is contrary to the law laid down by this Court in ***Kesar Chand's case (supra)***.

3. On the other hand, learned counsel for the respondents submitted that so far as the factual position is concerned, the same has been so reflected in the reply filed by the respondents.

4. I have heard learned counsels for the parties.

5. It is a case where the grievance of the petitioner is that his services rendered on daily wage basis from the date when he joined as a daily wager be counted for the purpose of grant of pensionary as well as retiral benefits in view of the Full Bench judgement of ***Kesar Chand's case (supra)***. The petitioner was earlier working as daily wager in the respondent department but thereafter he was retrenched and by approaching the Court of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak, he was directed to be reinstated alongwith continuity of service and full back wages and so far as the aforesaid backwages are concerned, the same were modified and reduced to 40% later on by this Court. However, the issue involved in the present case is with regard to the counting of the services rendered by the petitioner on



daily wage basis because while he was working on daily wage basis, he was regularized, which is an admitted position in the reply filed by respondents-Nigam. Therefore, this Court is of a considered view that present case of the petitioner is squarely covered by the Full Bench judgment of this Court in *Kesar Chand's case (supra)*.

6. In view of the above facts and circumstances, present petition is allowed.

7. The respondents are directed to count the services of the petitioner rendered by him on daily wage basis for the purpose of pensionary and retiral benefits and to recalculate and refix his retiral benefits and thereafter to pay arrears of the same to the petitioner within a period of 04 months from today alongwith interest @6% per annum (simple). In case aforesaid amount is not paid to the petitioner within the stipulated time frame then he shall be entitled for future rate of interest @9% per annum (simple).

(JASGURPREET SINGH PURI)
JUDGE

07.05.2024
shweta

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