

2024:PHHC:016847

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

104+205

CWP-28398-2018 (O&M)

Date of decision: 07.02.2024

Puran Chand

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. A.S. Manaise, Advocate for the petitioner

Mr. Charanpreet Singh, AAG Punjab

AMAN CHAUDHARY. J.

CM-1864-2024

For the reasons mentioned in the application for amendment of the petition, the same stands allowed. Amended petition is taken on record, subject to all just exceptions.

CWP-28398-2018

1. The present Civil Writ Petition have been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to consider the daily wage service of the petitioner w.e.f. 27.05.1982 till the regularisation i.e., 08.05.2006 as qualifying service for pensionary benefits.

2. Learned counsel would contend that the petitioner was appointed as a Beldar on 27.05.1982 on daily wage basis, whereafter, he was granted regularisation on 08.05.2006 against the same post and promoted as a Peon in the year 2017. He retired from the said post on 30.09.2020. The grievance of the petitioner is that his daily wage service prior to regularisation is not being

counted towards qualifying service for the purpose of Old Government Provident Fund Scheme on account of the fact that the New Defined Contributory Scheme is applicable from 01.01.2004. He relies on the judgment passed by the Division Bench in **Harbans Lal vs. The State of Punjab and Others**, 2012(3) S.C.T. 362, wherein this issue already stands decided, SLP dismissed and judgment implemented and also to a recent judgment in **Municipal Council, Radian vs. Musthaq Masih and Others**, LPA-666-2022, whereby a batch of appeals were disposed of on 21.12.2023 by the Division Bench in terms of the judgment in **Harbans Lal** (supra). In this regard, a legal notice dated 09.10.2023 (Annexure P-4) has been served upon the respondents, which has yet not evoked any response. He thus, at this stage, on instructions, submits that the petitioner is sanguine of it being considered in a positive manner, in case, a direction is given to the said respondents to decide the same in a time bound manner by granting him an opportunity of hearing.

3. Learned State counsel has no objection to the limited prayer made.
4. In view of the above and without commenting upon the merits of the case, this petition is hereby disposed of with a direction to respondent No.2 to consider the legal notice dated 09.10.2023 (Annexure P-4) and decide the same, taking note of the judgments referred to, by the petitioner, within a period of 2 months and if found entitled, necessary benefit be granted forthwith. However, in the eventuality of the relief being denied, a speaking order be passed, after associating the petitioner.

(AMAN CHAUDHARY)

JUDGE

07.02.2024

M.Kamra

Whether speaking/reasoned

Whether reportable

: Yes / No

: Yes / No