



CWP No.23466 of 2024 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP No.23466 of 2024 (O&M)

Date of Decision:04.10.2024

Maha Singh

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sandeep Thakan, Advocate,
for the petitioner.

Ms. Safia Gupta, AAG, Haryana

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present case is for quashing of order dated 26.04.2024, Annexure P-4 and further directing the respondents to count daily wages/work charge services with effect from 07.05.1985 to 04.08.1998 for the purpose of pensionary benefits which, learned counsel for the petitioner states, is covered on all fours by the judgment in case of **Paramjit Kaur vs. State of Haryana and others**, CWP-4251 of 2016, decided on 12.03.2020, against which no LPA was preferred by the State, relevant paras whereof read thus:

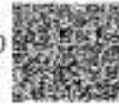
“The question of law raised in this writ petition is as to whether the daily wages services, which an employee had rendered is to be treated as qualifying service for computing the pensionary benefits has already been settled by the Full Bench of this Court



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in “*Kesar Chand v State of Punjab and others*”, AIR 1988 PUNJAB 265, It has been held by the Full Bench that keeping in view the provisions 3.17(a) of the Punjab Civil Services Rules, the daily wages services rendered by an employee prior to the regular service, is to be counted as qualifying service for computing the pensionary benefits. The relevant portion of the judgment is as under:

“19. In the light of the above, let us examine the validity of rule 3.17(ii) of the Punjab Civil Services Rules, Vol. II. This rule says that the period of service in a workcharged establishment shall not be taken into account in calculating the qualifying service. After the services of a work-charged employee have been regularised he becomes a public servant. The service is under the Government and is paid by it. This is what was precisely stated in the Industrial Award dated June 1, 1972, between the workmen and the Chief Engineer, P.W.D. (B. & R), Establishment Branch, Punjab, Patiala, which was published in the Government Gazette dated July 14, 1972. Even otherwise. The matter was settled by the Punjab Government Memo No. 14095-BRI (3)-72/5383 dated 6th February, 1973(Annexure P7) where it was stated that all those work charged employees who had put in ten years of service or more as on 15th August, 1972, their services would be deemed to have been regularised. Once the services of a work charged employee have been regularised, there appears to be hardly any logic to deprive him of the pensionary benefits as are available to other public servants under Rule 3.17 of the Rules. Equal protection of laws must

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mean the protection of equal laws for all persons similarly situated. Article 14 strikes at arbitrariness because a provision which is arbitrary involves the negation equality. Even the temporary or officiating service under the State Government had to be reckoned for determining the qualifying service. It looks to be illogical that the period of service spent by an employee in a work-charged establishment before his regularisation has not been taken into consideration for determining his qualifying service. The classification which is sought to be made among Government servants who are eligible for pension and those who started workcharged employees and their services regularised subsequently, and the others is based on any intelligible criteria and, therefore, is not sustainable at law. After the services of a work-charged employee have been regularised, he is a public servant like any other servant. To deprive him of the pension is not only unjust and inequitable but is hit by the vice of arbitrariness, and for case reasons the provisions of sub-rule (ii) of Rule 3.17 of the Rules have to be struck down being violative of Article 14 of the Constitution.”

Keeping in view the **Kesar Chand's** case (*supra*), the service which the late husband of the petitioner had rendered from March 1982 till 25.04.2003, is to be treated as a qualifying service for computing the pensionary benefits. Non-grant of the benefit of the qualifying service from March, 1982 till April, 2003 is contrary to the settled principle of law. Once, the rules governing the service have been interpreted by the Full Bench of this Court in **Kesar Chand's** case (*supra*) to the effect that the

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daily wages service rendered by an employee prior to regularization of his services, is to be treated as a qualifying service for computing the pensionary benefits, the petitioner is entitled for the benefits of the daily wages service, which her late husband had rendered from March 1982 till April 2003 as qualifying service to compute the pensionary benefits.

Learned counsel for the respondents has not been able to show anything contrary to the law settled by the Full Bench of this Court in *Kesar Chand's* case (*supra*). Further, the respondents have already implemented the Award passed by the Labour Court dated 07.01.1998 (Annexure P-4) according to which, the petitioner was reinstated in service with continuity in service, meaning thereby that it has to be deemed that the late husband of the petitioner continued in service uninterruptedly from March 1982 till he died on 02.12.2015. That being so, the total service which the late husband of the petitioner rendered from 28.03.1982 till 02.12.2015 is to be taken into account as a qualifying service for computing the pensionary benefits.

Keeping in view the above, the present writ is allowed. The respondents are directed to recalculate the pensionary benefits of the petitioner by treating the service rendered by the late husband of the petitioner from 28.03.1982 till 02.12.2015 as a qualifying service and after the re-calculation is done, the petitioner be given the benefits of arrears for which she become entitled under this order.

As the petitioner has been forced to approach this Court for the grant of the relief, which is based upon the settled principle of law and existed at the time when the late husband of the petitioner died in December 2015, the petitioner will also be entitled for interest @ 9% per annum. The interest will be

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calculated from January 2016 onwards till the arrests are released to the petitioner.

Let the computation of the benefits for which the petitioner becomes entitled under this order be done within a period of two months from the date of receipt of certified copy of this order and the amount so calculated, be released to the petitioner within a period of one month thereafter.”

2. Learned State counsel, despite her best efforts, has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
3. In view of the aforesaid, the present writ petition is disposed of in terms of **Paramjit Kuar** (supra).
4. Pending application(s), if any, also stand(s) disposed of.

(AMAN CHAUDHARY)
JUDGE

October 04, 2024
dinesh

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