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

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CWP-30318-2024 (O&M)
Date of decision: 08.11.2024

Khurshid Ahmed and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Yesh Paul Malik, Advocate and
Mr. Ankur Malik, Advocate
for the petitioners.

Ms. Vibha Tewari, AAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for directing the respondents for opening the GPF account of the petitioners by converting it from NPS to OPS taking into account computing temporary/daily wages/contractual basis service rendered by them as qualifying service, which is more than 20 years and thereafter grant pensionary benefits. Reliance has been placed on the judgment passed in the case of similarly situated employees, who had filed CWP-19810-2018 titled as **Dalbir Singh vs. State of Haryana and others** and connected cases, decided on 06.12.2023, Annexure P-8, with regard to which learned State counsel had sought time to go through and obtain instructions from department as well on the last date of hearing and despite her best efforts has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law. Relevant paras thereof read thus:-

“9. It is a conceded fact that the petitioner worked only period for

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a period of 10 days during the strike and thereafter, he remained out of service and after a period of one decade, he was appointed in the year 2004 and too on temporary basis, which services were regularized by the respondents in the year 2008. It is also a conceded position that on the request of the petitioner, his services were regularized from the date of his initial appointment i.e. 01.06.2004. That being the conceded position, once the petitioner never raised any grievance qua the regularization of his services from the year 1996, no benefit can be given to the petitioner after his retirement.

10. Even otherwise, the benefit of regularization being claimed by the petitioner is not admissible for the reason that petitioner was only appointed for a specific duration during the strike period and he had only worked for a period of 10 days. It cannot be said that the said appointment of 10 days only is to be treated as valid appointment by treating the period of one decade (10 years) as duty period, for which the petitioner remained out of service so as to grant him the benefit of antedated regularization in service. Nothing has come on record that the period for which, the petitioner remained out of service from 1993 to 2004 has ever been treated as duty period hence, the claim of the petitioner that he be granted benefit of antedated regularization in service from the year 1996, when he was not in service, cannot be accepted.

11. At this stage, learned counsel for the petitioners submits that the period of actual service of the petitioners on adhoc basis or even on temporary basis is to be treated as qualifying service for computing the pensionary benefits of the petitioners.

12. Learned counsel for the respondents submits that the respondent-State has no objection in case the period of actual service on adhoc basis or even on temporary basis is to be treated as qualifying service for computing the pensionary benefits of the petitioners.

13. Keeping in view the fact that State has no objection for the grant of benefit of service rendered by the petitioners on adhoc basis or temporary basis is to be treated as qualifying service for the purpose of computing the pensionary benefits of the petitioners, though, the claim of the petitioners for the grant of benefit of antedated regularization in service is rejected but the respondents are directed that any period for which the petitioners have worked either on adhoc basis or on temporary basis be taken into account as qualifying service for computing their pensionary benefits.

14. Learned counsel for the petitioners further submits that though, the services of the petitioners have been regularized by the respondents w.e.f. 01.01.2004 but benefit of Old Pension Scheme has not been granted to them, which action of the respondents is contrary to the settled principle of law settled by the Division Bench of this Court in CWP-2371-2010 titled as Harbans Lal vs. State of Punjab and others, decided on

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- 31.10.2010.
15. Learned counsel for the respondents has not been able to dispute the fact that the petitioners were in service prior to 01.01.2006 though, their services were regularized after 01.01.2006 hence, the case of the petitioners is covered by the judgment of Division Bench of this Court in Harbans Lal (Supra).
16. Keeping in view the said fact, respondents are directed that the petitioners be treated under the Old Pension Scheme for the grant of pensionary benefits and the period for which, the petitioners had worked either on adhoc basis or on temporary basis, the said period be treated as qualifying service for only computing the pensionary benefits of the petitioners and not for any other purpose. In case, the petitioners are still in service, the benefit of this judgment be given to them at the time of their retirement and the present order be complied with qua the petitioners, who have already retired, within a period of two months from the date of receipt of copy of this order.
17. All the petitions are disposed of in above terms.”

2. In wake of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Dalbir Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

08.11.2024
ashok

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