



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

323

CWP-1160-2002 (O & M)
Date of decision: 04.04.2025

Malkiat Singh

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.K.Chauhan, Advocate,
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for directing the respondents to release the 'after retiral benefits' and to count the *ad hoc* serviced rendered by the petitioner w.e.f. 12.05.1962 to 19.09.1973 towards pensionary benefits alongwith interest.

2. Learned counsel for the petitioner prays for disposal of the petition in terms of the judgment in **Shanno Devi vs. State of Haryana and others**, 2013(2) RSJ 426, which was followed in **Vanita Vashisht vs. State of Haryana and others**, CWP-22249-2020, decided on 29.11.2023, which learned State counsel despite best efforts, was unable to resist by distinguishing the same or cite any contrary law, relevant paras of **Shanno Devi** (supra) read thus:



“8. I find that the respondent-authorities while passing the impugned order dated 17.6.2011, Annexure P3, have clearly proceeded on an erroneous premise. Rule 4.23 contained in Punjab Civil Services Rules, Chapter IV, Vol.II regulates Condonation of Interruptions and Deficiencies. The interruption in service as regards the petitioner between the spell of adhoc service and permanent service was clearly not condonable as the adhoc service rendered by the petitioner preceding the interruption was less than five years duration and such interruption itself was more than a period of one year. Be that as it may, the claim of the petitioner was not as regards condonation of such interruption in service i.e. the period between the initial adhoc service and followed by permanent regular service, Rather the claim of the petitioner was to count the adhoc service rendered by her for the period 21.2.1974 to 5.8.1978 towards qualifying service and by omitting the period of break. Such claim of the petitioner stands squarely covered in the light of Rule 3.17-A of Punjab Civil Services Rules.

9. While taking a view that the entire service interrupted or continuous followed by confirmation is to be treated as qualifying service for pension and the period of break is to be omitted while working out the aggregate service, I would draw support from a Division Bench judgment of this Court rendered in *Kesho Ram v. State of Haryana and others*, 2006(6) SLR 334, wherein it was held in the following terms:

".....The matter is no longer res-integra as un-amended Rule 3.17 which confined the qualifying service only to the period of regular service was struck down by a Full Bench of this Court in the case of *Kesar Chand v. State of Punjab*, 1988(3) PLR 223. Rule 3.17, (ii) as applicable in the State of Punjab had specifically provided that the period of service in work charge establishment was not to be taken into account for determining qualifying service of an employee. The afore mentioned rule was declared as ultra vires of Article 14 of the Constitution. The view of the Full Bench is discernible from para 19 of the judgement which reads as under:

"..... 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 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 of equality. Even the temporary or officiating service under the State Government has 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 as work charged employees and their services regularised subsequently, and the others is not based on any intelligible criteria and, therefore, is not sustainable at law. After the services of a work charged employee have been regularized, 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 these 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." We further find that the afore-mentioned view taken by the Full Bench has been followed by a Division Bench of this Court in the case of **Mangat Ram v. Haryana Vidyut Prasaran Nigam Ltd. and others, 2005(4) S.C.T. 302: 2005(5) SLR 793**, wherein again it has been held that the services rendered by a daily wageer followed by regularisation of his service deserved be considered as qualifying service for the purposes of pension and other retiral benefits. The view taken by this Court has lead to addition of Rule 3.17(A) of the Punjab Civil Service Rules, Volume II (as applicable to Haryana) which provides that all service interrupted or continuous followed by confirmation shall be treated as qualifying service and the period of break are to be omitted while working out the aggregate service. Accordingly we are of the considered view that this petition deserves to be allowed."

10. For the reasons recorded above, the present petition is allowed. The order dated 17.6.2011, Annexure P3, is set aside. It is directed that the period of service rendered by the petitioner on adhoc basis from 21.2.1974 to 5.8.1978 would also be counted towards qualifying service for pension and gratuity. Let such exercise of re-computation of aggregate



qualifying service for pension and gratuity be completed within a period of two months from the date of receipt of a certified copy of this order and the requisite benefits flowing thereupon be released to the petitioner within a period of four weeks thereafter.

11. Petition allowed in the aforesaid terms.
Petition allowed.”

3. In wake of the above, the present petition is disposed of in terms of **Shanno Devi (supra)**.

04.04.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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