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**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.**

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Date of Decision: 04.07.2025.

(1) CWP-17792-2000 (O&M).

OM PARKASH AND OTHERS

... Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

... Respondent(s)

(2) CWP-3078-2001 (O&M).

GOBIND RAM AND OTHERS

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Raman B. Garg, Advocate, with
Mr. Mayank Garg, Advocate,
for the petitioner(s).

Ms. Dimple Jain, DAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

CM-5739-2001 in CWP-3078-2001
CM-31054-2000 in CWP-17792-2000

Applications are allowed as prayed for subject to all just exceptions.

Annexures in the respective writ petitions are taken on record.

The Registry is directed to tag the same at an appropriate place.

Main cases

Involving identical questions, both these writ petitions are being decided by a common order.

2 For the sake of brevity, the facts are, however, being extracted from CWP-17792-2000 titled as 'OM PARKASH AND OTHERS Vs. STATE OF HARYANA AND ANOTHER.'

3 Challenge in the above said writ petition is to the order dated 30.08.1999 passed by the Director, Panchayat, Haryana, Chandigarh whereby the application regarding granting of benefit to the ex-panchayat samitis employees of the higher standard pay scale has been rejected and to the order

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dated 28.04.2000 issued by the Director Panchayat, Haryana, Chandigarh, declining to give benefit of additional increment and higher standard pay scale w.e.f. 01.07.1992 on completing 08 years and 18 years of service to the Group 'C' and 'D' employees working panchayat side in Block Offices. A further prayer has been made for declaration to the effect that the communication vide letter dated 29.12.1995 be held to be not-applicable to the petitioners.

4 The factual aspects essential for determination of the present writ petitions are to the effect that the petitioners were appointed on regular basis between 1963 to 1966 as Clerks in the Panchayat Samitis of the State of Haryana constituted under the Punjab Panchayat Samiti and Zila Parishad Act, 1961 as applicable to the State of Haryana. They were confirmed by the respective Panchayat Samitis and became permanent Clerks for all intents and purposes. The aforesaid Act of 1961 was amended vide Haryana Act No.22 of 1973 with an object to empower Government to control and supervise functioning of Panchayat Samitis effectively. The powers of appointment were taken away from the Panchayat Samitis by deleting Section 34 of the aforesaid act and a new sub-Section 35 (4) was inserted whereby the persons employed in the Panchayat Samiti before the 1st day of April, 1973 were held to continue to serve on the same terms and conditions on which they were employed by the Panchayat Samitis until they are

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absorbed in the Government Service or retire in such manner as may be prescribed.

5 In exercise of the powers conferred under Section 35 (4) of the Act of 1961, as amended vide Haryana Act No.22 of 1973, the State issued a policy dated 05.01.1977 regarding provincializing of services of the employees of the Panchayat Samitis. The terms and conditions incorporated in sub Clause (4) and (5) thereof reads thus:-

“(4) These employees shall be treated in Government Service from the day they joined the posts and no benefit shall be given towards their seniority etc.

(5) The benefit of past service shall be given to these employees towards pay fixation and leave.”

6 The petitioners were therefore absorbed pursuant to the aforesaid policy w.e.f. 01.02.1977. Eventually vide letter dated 30.04.1981, the Government also decided to extend benefits of past service rendered in Panchayat Samitis since 01.11.1966 towards pension, family pension, provident fund and gratuity etc. The said policy was further amended vide letter dated 22.11.1991 and the benefit of past service rendered with the Panchayat Samiti from the date of appointment of concerned employee i.e. prior to 01.11.1966 was also decided to be taken into consideration for grant of pension, family pension, provident fund and gratuity etc. Hence, the complete past service rendered by an employee in the

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Panchayat Samitis was decided to be taken into consideration for extension of such benefits.

7 Learned counsel for the petitioners contends that the petitioners were thereafter promoted as Assistants in the Department of Panchayat on the basis of good service record, however, the benefit of additional increments on completion of 08/18 years of regular satisfactory service vide policy letter dated 07.8.1992 as substituted by the higher standard pay scale was, however, not extended to them thus compelling the petitioners to approach this Court for grant of such benefits.

8 Learned counsel appearing on behalf of the petitioner(s) contends that the service rendered by the petitioners as regular employees of the erstwhile Panchayat Samitis has to be counted for computation of the benefits in the form of additional increments/ higher standard pay scale etc. on completion of 08/18 years of service/ as was applicable at the relevant point in time by counting the past service rendered by them since the said service was followed by the absorption in the Government Department and the terms and conditions of the State Policy protected the past service rendered by the petitioners.

9 It is contended that only the seniority of the petitioners was taken away and all other service benefits continued to enure in their favour. Hence, they were entitled to claim the benefits that accrued in their favour on account of length of service rendered by them in the Panchayat Samitis before provincilization of the services rendered by them.

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10 Reliance is placed by the petitioners on the Hon'ble Division Bench judgment of this Court in the matter of **Harinder Kumar and others Vs. the State of Haryana and Another, passed in CWP No.1739 of 1995 decided on 31.05.1995 as well as to the judgment in the matter of Khansi Ram Vs. State of Haryana and Others, passed in CWP-10851 of 1996 decided on 17.10.1996.** Reliance is also placed on the judgment of the Hon'ble Supreme Court in the matter of **State of Haryana and Anr Vs. Deepak Sood and others, arising out of Special Leave Petition (Civil) No.10857 of 2006 decided on 15.07.2008.** The relevant extract thereof reads thus:-

“13. Therefore, in the series of judgments given by this Court the view has been taken that in case of a transfer/absorption from one department to another or from public sector to State though the benefit of the seniority may be denied to the incumbent but not for other benefits like pay fixation and for the pensionary benefits. Therefore, when the benefit of past service rendered in the parent department was given for fixation of pay and pensionary benefits, there is no reason why the past service should not be counted for grant of ACP Grade. Consequently, we are of the view that the view taken by the Division Bench of the High Court in the impugned judgment and order is correct and there is no ground to interfere in this appeal. Consequently, this appeal is dismissed but with no order as to costs.”

11 Learned counsel for the respondent-State, however, submits that since the benefit of seniority had not been extended to the petitioners, hence, they are to be treated as fresh entrants and as such, they cannot be held

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entitled to claim the benefit of previous service rendered by them with the Panchayat Samitis and the same cannot be considered for computing the benefits as claimed. She submits that the order under challenge has rightly been passed after taking into consideration the actual service rendered by the petitioners consequent upon their absorption with the State Government pursuant to the policy issued by them.

12 Learned State counsel has however not referred to any judgment nor has been able to point out any distinction about the applicability/non-applicability of the judgments that have been relied upon by the counsel for the petitioners in support of his case. She however fairly concedes that such and similar benefits had however been extended to persons employed in other Boards and Corporations in the State of Haryana.

13 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petitions.

14 Undisputedly, the policy issued by the respondent-State regarding provincilization of the services of the employees of the Panchayat Samitis prior to 05.01.1977 specifically stipulates that the appointment of the petitioners shall be considered in the Government Service when they join the service and the previous service was not to be counted for the purpose of seniority only. The previous service was required to be counted for pay protection and pay fixation as well as for the benefit of leave. The very fact that the policy stipulated the extension of benefit of past service rendered for

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pay protection and grant of leave, the response would not be justified in contending that the benefits that are a part of the pay protection and pay fixation as well as for grant of leave cannot be extended to the petitioners more-so when such benefit has been given to other employees.

15 The grant of additional increments on completion of 08/18 years of regular satisfactory service as well as the higher standard pay scales are thus part and parcel of the pay protection and pay fixation that had been protected under condition Nos.4 and 5, of the policy of 05.01.1977 which has also been reflected in the subsequent policies as amended by the respondents. I find that there is no valid reason for the respondents to still contend that the petitioners would be treated as fresh entrants in service. In doing so, the respondents have in fact deprived the petitioners of the benefit of past service rendered by them notwithstanding the assurance given by the Government.

16 Learned counsel for the respondent-State has also not been able to refer to any provision or any distinctive feature on the basis whereof it may be said that the case of the petitioners would not be at par or be covered by the judgments passed by this Court in **Harinder Kumar and others** (supra) and **Khansi Ram** (supra) and as to why the judgment of the Hon'ble Supreme Court in the matter of **State of Haryana and Anr. Vs. Deepak Sood and others**(supra) would not be applicable.

17 Under the given circumstances, I am of the opinion that the respondents have not been able to justify their stand either on plain reading of the policy framed by them or even as per the law interpreted and applied

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by the Hon'ble Supreme Court as well as this Court through various precedents.

18 Consequently, the present writ petitions are allowed. The petitioners are held entitled to claim the benefit of service rendered by them as part of employees with the Panchayat Samitis before their provincilization pursuant to the policy notified by the State Government, for release of the benefits of additional increments/higher standard pay scales as and when applicable to them. The respondents are accordingly further directed to recalculate the benefits that become admissible to the petitioners, within a period of 03 months of receipt of a certified copy of this order and the admissible benefits are directed to be released within a further period of two months thereafter. It is made clear that in case the aforesaid exercise is not completed and the undisputed benefits are not released in favour of the petitioners within the aforesaid period, the petitioners shall become entitled to interest @ 6% per annum from the date of this order and which such enhanced interest cost may be recovered by the State Government from the officials who caused such delay in disbursement of the benefits.

19 A photocopy of the order be placed on the connected file(s).

July 04, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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