

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

224

CWP-6958-2019

Date of decision: 27.01.2025

SUNIL BHATIA

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

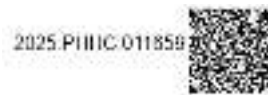
Present : Mr. A.S. Nirmaan, Advocate for the petitioner.

Mr. Satnampreet Singh Chauhan, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is to direct the respondents to consider the claim of the petitioner for including the two years extension period for the purpose of reckoning of qualifying service for pension.
2. Learned counsel submits that the issue involved in the present petition has been decided by this Court in **Kamaljit vs. State of Punjab and Others**, CWP-6287-2018, on 25.04.2022 against which there was no LPA filed, wherein the services rendered by the petitioner on daily wage basis as also rendered by him during which he was granted extension was directed to be qualified for the purpose of pension, covers the present case on all fours, which the learned State counsel despite best efforts has not been to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law, relevant extract whereof reads thus:-

“I have heard learned counsel for the parties and have gone through the record with their able assistance. As far as the first prayer of the petitioner for taking into consideration the daily wage service rendered by the petitioner from 01.01.1990 till 23.01.2001,



the said service at the hands of the petitioner is not in dispute. Once, that being so, the petitioner is entitled for counting of the said service keeping in view the provisions of the Punjab Civil Service Rules i.e. Rule 3.17, which Rule is as under:-

3.17. If an employee was holding substantively a permanent post on the date of his retirement, his temporary or officiating service under the State Government, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of : –

(i) periods of temporary or officiating service in nonpensionable establishment; (ii) Omitted.

(iii) Omitted.

Note 1.—In case of a Central Government employee who is permanently transferred to the Punjab Government and becomes subject to these rules, under rule 1.1 (b) of these rules, the term “continuous temporary/officiating service” shall include such service rendered under Central Government.

Note 2.—In case of a purely temporary Central Government employee who is permanently transferred to Punjab Government and becomes subject to these rules, the term “continuous temporary service” includes the temporary service under the Central Government. The pensionary liability in respect of such cases shall be allocated on the length of service.

Note 3.—The entire service rendered by an employee as work-charged as also the service paid from contingencies, shall count as qualifying service: Provided that— (i) such service is followed by regular employment;

(ii) there is no interruption in the two or more spells of service, or the interruptions are condonable under rule 4.23; and

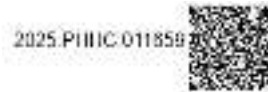
(iii) such service must be a full-time job. Note 4. The entire adhoc service rendered by a Government employee may be counted as qualifying service: Provided that—

(i) such service is followed by regular employment;

(ii) there is no interruption in the two or more spells of adhoc service, and adhoc and regular service, or the interruptions are condonable under rule 4.23;

(iii) such service must be a full-time job;

(iv) recruitment to such service should have been made through the Employment Exchange or by open advertisement;



(v) the service rendered as adhoc employee must have been against a regular post or vacancy; and

(vi) the conditions for eligibility, like academic qualifications, experience and age, at the time of adhoc appointment, should have been fulfilled.”

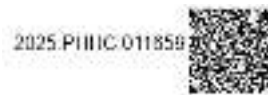
A bare perusal of the above Rule would show that the daily wage service rendered by an employee is to be counted as a qualifying service in case the same is followed by the regularization. In the present case, the service which the petitioner had rendered from 01.01.1990 till 23.01.2001 was followed by regular service and therefore, the same is liable to be counted keeping in view the provisions of Rule 3.17 (A) of the Punjab Civil Service Rules.

Not only this, by interpreting Rule 3.17 (A), the Full Bench of this Court while deciding 'Kesar Chand Vs. State of Punjab and others', AIR 1988 Punjab 265 has held that the daily wage service followed by the regular service is to be taken as a qualifying service for computing the pensionary benefits.

Learned counsel for the respondents has not been able to dispute the said proposition of law. That being so, the petitioner is entitled for counting the period starting from 01.01.1990 till 23.01.2001 as a qualifying service for computing the pensionary benefits.

With regard to the claim of the petitioner for counting the service which the petitioner had rendered on extension from 01.07.2014 onwards till 31.07.2015, the same is being denied to the petitioner on the ground that as per the instructions dated 30.10.2015, the employees, who were on extension, are not entitled for any benefit of the service being rendered on extension. The respondents are implementing the instructions issued by the Government dated 30.10.2015 retrospectively upon the petitioner. The instructions dated 30.10.2015 are prospective not retrospective and therefore, any service which an employee has rendered prior to the said date, is to be governed by the instructions applicable at the time of rendering the service on extension. Learned counsel for the respondents has not been able to point out any provisions/instructions which were applicable prior to 30.10.2015 which debars taking into account the service rendered on extension from 01.08.2014 till 31.07.2015 for purpose claimed. That being so, even the said service is to be taken into account as a qualifying service for computing the pensionary benefits.

The last claim of the petitioner in the present petition is for granting him the additional benefit of 5 years service keeping in view the Rule 4.2. (4) of the Punjab Civil Service Rules Volume 2 Chapter IV. The said Rule is as under:-



“4.2. (1) A Government employee appointed to a service or post after the twentysixth day of October, 1960, shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension), the actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded twenty-five years, or a period of five years, whichever is less, if the service or post to which the Government employee is appointed is one –

(a) for which post-graduate research or specialist qualification, or experience in scientific, technological or professional fields, is essential; and

(b) to which candidates of more than twenty-five years of age are normally recruited: Provided that this concession shall not be admissible to a Government employee unless his actual qualifying service at the time he quits Government service is not less than ten years: Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which carries the benefit of this rule.

(2) Omitted.

(3) Omitted.

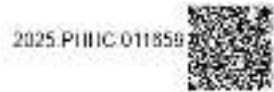
(4) A Government employee, who is blind, deaf, dumb or otherwise orthopaedically handicapped or widow at the time of his entry into Government Service, shall be eligible to add to his service qualifying for superannuation pension a period of five years.

(5) A Government employee, who becomes blind, deaf, dumb or otherwise orthopaedically handicapped during the service and is retired from service as a result thereof, shall also be eligible to add to his service qualifying for superannuation pension, a period of five years.”

A bare perusal of the above Rule would show that Clause 4 grants the additional benefit of 5 years service to a orthopedically handicapped person, who joined the service as such.

In the present case, the factum that the petitioner is orthopedically handicapped and was such even at the time of joining the Department has not being challenged. That being so, the petitioner is entitled for the grant of additional benefit of 5 years service as being claimed by him.

Keeping in view the above, the claim of the petitioner, in respect of the above claim is being allowed. The petitioner is entitled for counting of the daily wage service as a qualifying service from 01.01.1990 till 23.01.2001 as well as the period from 01.08.2014 till



31.07.2015 and period of additional 5 years should be added to the total service rendered by the petitioner keeping in view the Rule 4.2 (4) of the Punjab Civil Service Rules. Let the respondents recalculate the qualifying service of the petitioner and the pensionary benefits be recalculated and arrears of recalculation be done within a period of two months from the receipt of copy of this order and the arrears on recalculation be given to the petitioner within a period of one month thereafter.

The present writ petition is disposed of in above terms.”

3. In view of the above, the petition is disposed of in terms of **Kamaljit** (supra).

(AMAN CHAUDHARY)
JUDGE

27.01.2025
Amandeep

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