



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

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CWP-12296-2022 (O&M)
Date of decision: 11.02.2025

Suresh Kumar

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Inderjit Sharma, Advocate for the petitioner.

Ms. Shruti, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The petitioner was initially engaged as Safai Sewak on 89 days basis in August 1995 by the District Planning Office, Sangrur, whereafter his services were regularized vide order dated 07.06.2004, Annexure P-1, in terms of Notification dated 26.05.2003 but vide the impugned order/letter dated 01.12.2021, the GPF account number of the petitioner has been closed and directed to opt for new pension scheme.

2. In **Usha Rani vs. State of Punjab and others**, CWP-842-2013, decided on 09.02.2015, Annexure P-3, wherein similarly circumstanced daily wage worker, who had also been engaged on 89 days basis, though regularized on 18.04.2007, was entitled to the old pension scheme, the relevant paras whereof reads thus:-

“Where the Court creates a fiction by grant of continuity of service, all consequences flowing shall have to be imagined. When circular dated 13.3.2003 creates antecedents rights and not future rights, then the petitioner would have a right to have been regularized with effect from prior to 1.1.2004 when the contributory fund scheme was introduced and right to pension taken away. Regularization of a daily wage worker would also give a retroactive right to pension in view of the Full Bench decision of this Court in **Kesar Chand v. State of Punjab and others**, AIR 1988 PH 265. Consequently, the petition is allowed and the impugned order is declared to be read retroactively and



the petitioner's rights to regularization declared as crystallized prior to 1.1.2004."

3. The Division Bench of this Court while deciding CWP No. 2371 of 2010 titled as **Harbans Lal Vrs. State of Punjab & Ors.** decided on 31-08-2010, against which SLP stands dismissed on 30.07.2012, observed and held that "From the above discussion, we have come to the conclusion that the entire daily wage service of the petitioner from 1988 till the date of his regularization is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. Service prior to 01.01.2004. The new Re-structured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004, will not be applicable to the petitioner. The amendment made vide Annexure P-2 amending the Punjab Civil Service Rules, cannot be further amended by issuing clarification/instructions dated 30.05.2008 (Annexure P-3) The petitioner will continue to be governed by the GPF Scheme and is held entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Govt. Services prior to 01.01.2004."

4. Learned State counsel despite best efforts has not been able to controvert regards factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

5. In view of the above, the present petition is disposed of in terms of **Usha Rani** (supra).

(AMAN CHAUDHARY)
JUDGE

11.02.2025
Hemant

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