IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

241 **CWP-16356-2016**
Date of Decision :08.01.2025

Bhupinder Singh and others **...Petitioners**

Versus

State of Punjab and others **....Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Manveen Kahlon, Advocate for the petitioners.

Ms. Shruti, AAG, Punjab.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the claim of the petitioners is that their total length of service including the daily wage service be treated as qualifying service for computing the pensionary benefits and they be allowed the benefit of judgment of this Court in ***CWP-2371-2010 titled as Harbans Lal vs. State of Punjab and others, decided on 31.08.2010*** wherein it has been held that any employee, who was in service before 01.01.2004, will be covered by the Old Pension Scheme even if, his/her services have been regularized after the said date.

2. Learned counsel for the petitioners submits that the petitioners have been granted the benefit under the Old Pension Scheme but their total length of service has not been taken into account for computing their pensionary benefits, which is causing prejudice to them.

3. Learned counsel for the respondents submits that as of now,

nothing has come on record that total length of service of the petitioners has not been taken into account for computing their pensionary benefits.

3. I have heard learned counsel for the parties and have gone through the record with their able assistance.

4. It is a settled principle of law that keeping in view the interpretation given to Section 3.17-A of the Punjab Civil Service Rules, Vol-II, the total length of service of an employee, which includes the daily wage service prior to regularization of service, is to be taken into account as qualifying service for computing the pensionary benefits.

5. The judgment of the Full Bench of this Court in ***Kesar Chand vs. State of Punjab and others, AIR 1988, P & H 265*** has already attained finality as far back as in 1979.

6. Learned counsel for the respondents has not been able to rebut the fact that in case, an employee is a regular employee, who has rendered previous service on daily wage basis, the same is to be treated as qualifying service.

7. That being so, the present petition is disposed of with the direction to the respondents that while computing pensionary benefits of the petitioners, the daily wage service which the petitioners had rendered prior to regularization of their service be treated as a qualifying service for computing their pensionary benefits. In case, the said benefit has already been granted, no further exercise needs to be undertaken but in case, the same has not been granted, the respondents will again calculate the qualifying service of each of the petitioners by giving benefit of daily wage service rendered by them and then recompute the entitlement of their pensionary benefits after their retirement. In case, any of the petitioner has

already retired from service as of now or has unfortunately died as being stated at bar by the learned counsel for the petitioners. The payment will be given to the petitioners along with arrears.

8. Further, the issue with regard to the counting of daily wage service as qualifying service was adjudicated by this Court in the year 1979 and the petitioners have retired from service thereafter hence, the petitioners are also entitled for the grant of benefit of interest on the arrears which will be given to the petitioners @ 6% per annum from the date they retired from service till the actual payment is made keeping in view the judgment of the Division Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355.*** The relevant paragraph of ***J.S. Cheema's case (supra)*** is as under: -

> *"The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."*

9. Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

10. The present petition is disposed of in above terms.

January 08, 2025 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

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

AARTI SHARMA
2025.01.14 15:44
I attest to the accuracy and
integrity of this document