



CWP-19425-2017 (O&M)

-1-

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

114+248

CWP-19425-2017 (O&M)
Date of Decision :10.02.2025

Sikander Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. T.P.S. Walia, AAG, Punjab.

Mr. Sudhanshu Makkar, Advocate for respondents No.4 & 5.

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Harsimran Singh Sethi, J. (Oral)

1. The present petition has been filed by the petitioner as a means of redressal against their grievance which is that the petitioner's total duration of service has not been taken into account for calculating the benefit of leave encashment as the same has wrongly been taken into account from the date when services of the petitioner were regularized rather than rightly counting it from the initial date of appointment of the petitioner.

2. Learned counsel for the petitioner submits that once the earlier service rendered by the petitioner on work charge basis i.e. before his service was regularized, has been taken into account as a qualifying service for the purpose of computing the total length of service which computation is taken into consideration for providing benefit of pension, then for the purpose of calculating the leave encashment it also being the pensionary

**CWP-19425-2017 (O&M)****-2-**

benefit, the total length of service has to be taken into account as qualifying service.

3. The claim of the petitioner is for issuance of a direction to the respondents so as to treat the total length of service which shall include the time petitioner rendered service on work charge basis which is before his service was regularized as qualifying service even for computing the benefit of leave encashment to which the petitioner is entitled.

3. Learned counsel for the respondents on the other hand submits that once the petitioner was working on work charge basis and his services were regularized by the Government only in August, 2009 then for the purpose of providing the benefit of leave encashment the calculation of time period will only start from August, 2009 till the date the petitioner attained the age of superannuation and hence, the claim of the petitioner has rightly been rejected by the respondents.

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

5. The term qualifying service has been defined under the Punjab Civil Services, Rules, which also includes the time period of person has rendered service on daily wage basis prior to the regularization of service hence, exclusion of the same for computing the pensionary benefit of leave encashment is arbitrary and illegal. For the purpose of computing the leave encashment period and to grant the benefit of leave encashment, the total length of qualifying service is to be taken into account.

6. In the present case if the argument of the learned counsel for the respondent is to be taken into account that for the purpose of leave



encashment, the benefit will only start from the date of regularization of service, it will create an anomaly and will amount to having two different definitions for the term qualifying service for the grant of two different pensionary benefits. In case the argument of the learned counsel for the respondents is accepted, the calculation for computing the time period of qualifying service for the grant of pension will be different and for the grant of benefit of leave encashment and gratuity will be different, which is not envisaged under the Rules. Under the Rules, only one definition of qualifying service has been envisaged which is to be taken into account for computing all the pensionary benefits according to which definition the work charge service rendered by an employee is to be taken into account for ascertaining the claim of the employee qua pensionary benefits.

7. Further, the Rule 8.116 of the Punjab Civil Services Rules, which stipulates about the earned leave admissible to Government employee, the words used therein are 'length of service'.

8. Once, the total length of service also includes the service rendered prior to the regularization of an employee, then the calculation of time period for the purpose of the grant of benefit commencing only from the date when the service of the petitioner were regularized is contrary to the rules itself.

9. Keeping in view the above, impugned order dated 12.08.2016 (Annexure P/3) is set aside. The petitioner is held entitled for computing the counting of total length of service which shall also include the service rendered by him before being regularized as qualifying service for computing the entitlement of the leave encashment also.

**CWP-19425-2017 (O&M)****-4-**

10. Let the respondents recalculate the entitlement of the petitioner for the encashment of leave under this order and grant him the benefit as admissible to him within a period of 08 weeks from the date of receipt of copy of this order.

11. Present petition is allowed in above terms.

12. Civil miscellaneous application pending, if any, is also disposed of.

February 10, 2025*aarti***(HARSIMRAN SINGH SETHI)****JUDGE***Whether speaking/reasoned : Yes**Whether reportable : No*