



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

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**CWP-26941-2014 (O&M)
Date of decision: 17.09.2025**

Satbir Singh

....Petitioner

Versus

The State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shalender Mohan, Advocate
for the petitioner.

Mr. Piyush Khanna, Addl. A.G., Haryana.
for respondent No.1.

Mr. Lekhraj Sharma, Advocate
with Mr. Abhishek Sharma, Advocate
and Ms. Shagun, Advocate for respondents No.2 to 5.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the action of the respondents, who are not taking any action on the legal notice dated 11.03.2014 (Annexure P-1) in spite of reply dated 06.05.2014 (Annexure P-2) qua the claim of the petitioner. Further a writ of *mandamus* has been sought, directing the respondents to count the *ad hoc* service of the petitioner from 15.12.1983 to 31.03.1993 towards pensionary benefits i.e. gratuity, ACP, increments and pension, etc. along with interest @ 18% per annum. Further prayer has been made to direct the respondents to grant 2nd ACP



and 3rd ACP to the petitioner for completion of 20-30 years of service, as has been granted to his counterparts.

2. The brief facts of the case are that the petitioner was appointed on 15.12.1983 as Work Mistry/Watchman (now termed as Work Supervisor) on *ad hoc* basis in a regular pay scale of Rs.350 – 500/-. The petitioner continuously rendered his services in this capacity until 31.03.1993. The conduct and performance of the petitioner during this period was reported to be satisfactory and no disciplinary action or adverse remarks are stated to have been recorded against him. The petitioner's services were regularised w.e.f. 01.04.1993, and he continued to serve the respondent/Department without any break until his retirement on attaining the age of superannuation on 31.05.2013.

2.1. It is the case of the petitioner that he was granted the 1st ACP in the year 2003 upon completion of 10 years of satisfactory service. However, despite completion of 30 years of service by 2013, he was not granted the 2nd and 3rd ACPs, which, according to him, was due to inaction and neglect on part of the respondents. It is also the case of the petitioner that his *ad hoc* service from 15.12.1983 to 31.03.1993, rendered on regular pay scale, was not counted for the purpose of pensionary benefits such as gratuity, increment, and qualifying service towards ACP. The petitioner claims parity with similarly situated co-employees, who were appointed during the same recruitment process and have been granted all such benefits, including 2nd and 3rd ACPs.



3. Learned counsel for the petitioner, *inter alia*, contends that the *ad hoc* service rendered by the petitioner from 15.12.1983 to 31.03.1993, ought to be counted towards qualifying service for pensionary and other service related benefits, especially when the same was followed by regularization without break in service. He submits that the respondents, through reply dated 06.05.2014 (Annexure P-2), had acknowledged the petitioner's claim and assured that the matter was under consideration but for more than a decade now, the respondents have failed to take any concrete steps to redress the petitioner's grievances.

4. Learned counsel for the petitioner submits that similarly situated counterparts of the petitioner have already been granted such benefits, ensuring parity and equality before the law. The petitioner's claim is supported by binding judicial precedents which recognize that contractual or work-charge service against sanctioned posts, followed by regularisation, must be counted for pensionary and other service benefits. He further contends that the continued inaction on the part of the respondents is not only arbitrary but also discriminatory, especially when similarly situated employees have already been granted similar relief.

5. *Per contra*, learned counsel for respondents No.2 to 5 submits that the petitioner remained absent from his duty during the period of his engagement on *ad hoc* basis and due to such unauthorized absence, the petitioner is not entitled to the benefit of counting the past



service rendered by him for qualifying period for fixing his pensionary benefits.

6. In rebuttal, learned counsel for the petitioner submits that the petitioner has approached the learned Labour Court, Gurugram and a compromise was effected in the presence of a Labour Conciliation Officer, Gurugram on 24.08.1988. The award of the learned Labour Court granting continuity in service is passed in favour of the petitioner. At the time of compromise, the petitioner has only relinquished his claim with regard to the financial benefits of the alleged broken period as the respondent/Department was in a dominate position and being an employee, the petitioner has agreed to forego his claim of the salary for the alleged broken period.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

8. The issue involved in this petition has been authoritatively decided by the Full Bench of this Court in ***Kesar Chand and others v. State of Punjab and others, 1988(5) SLR 25***, wherein it was held that the work-charge service rendered prior to regularisation is to be counted as qualifying service for pension and other service benefits. The operative part of the said judgment, reads as follows:-

"Once the services of a work-charged employee have been regularized, there appears to be hardly any logic to deprive him of the pensionary benefits as are available to other public servants under Rule 3.17 of the Rules. Equal protection of laws must mean the protection of equal laws for all persons similarly situated. Article 14 strikes a arbitrariness because a provision which is arbitrary



involves the negation of equality. Even the temporary or officiating service under the State Government has to be reckoned for determining the qualifying service. It looks to be illogical that the period of service spent by an employee is a work-charged established before his regularization has not been taken into consideration for determining the qualifying service. The classification which is sought to be made from Government servants who are eligible for pension and those who started as work-charged employee and their services regularized subsequently, and the others is not based on any intelligible criteria and, therefore, is not sustainable at law. After the services of a work charged employee have been regularized, he is a public servant like any other servant. To deprive him of the pension is not only unjust and inequitable but is hit by the vice of arbitrariness and for these reasons the provisions of sub rule (ii) of Rule 3.17 of the Rules have to be struck down being violative of Article 14 of the Constitution.”

9. Further the similar issue came up for consideration before the Division Bench of this Court in **“*Harbans Lal Vs. State of Punjab and others*”, 2012(3) SCT 362**, wherein it was held that the entire daily wage/work charge service rendered by an employee prior to regularization is to be counted as qualifying service for the purposes of pension, and such an employee, if in service prior to 01.01.2004, shall be governed by the GPF Scheme and entitled to pensionary benefits applicable to employees recruited before 01.01.2004, notwithstanding their regularization after that date. The relevant paragraph of the said judgment reads as under:-

“16. 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 Services Rules, cannot be further amended by issuing clarification/instructions dated 30.5.2008 (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.

17. In view of the above, the writ petition is allowed. Accordingly respondents are directed to treat the whole period of work charge service as qualified service for pension because accordingly to clarification issued on 30.05.2008 (Annexure P-3), the new defined Contributory Pension Scheme would be applicable to all those employees who have been working prior to 01.01.2004 but have been regularized thereafter. Let his pension and arrears be calculated and paid to him expeditiously, preferably within a period of three months from the date of receipt of copy of this order.”

10. The judgment in case of ***Harbans Lal's case (supra)*** was challenged by the State before the Hon'ble Supreme Court by filing a Special Leave Petition, which was dismissed vide order dated 30.07.2012 and thereafter, the review petition was filed in the said SLP, which was also dismissed vide order dated 04.11.2015.

11. Moreover, a similar controversy, as involved in the present petitions, has already been decided by the Coordinate Bench of this Court in **CWP No.21492 of 2023** and other connected cases, titled as ***Rameshwar Dass vs State of Haryana and others***, decided on **17.07.2025**.

12. In view of the above authoritative pronouncements, it is evident that the petitioner's *ad hoc* service rendered from 15.12.1983 to



31.03.1993, followed by his regularisation w.e.f. 01.04.1993, is liable to be counted for pensionary and other consequential benefits. The compromise effected before the learned Labour Court, Gurugram on 24.08.1988, resulting in the award of continuity of service, further strengthens the petitioner's claim. The refusal of the respondents to count this period of service is not only arbitrary but also in contravention of Articles 14 and 16 of the Constitution of India, especially when similarly situated employees have already been granted the same benefits.

13. With regard to the petitioner's claim for grant of the 2nd and 3rd ACPs, it is relevant to note that the petitioner was granted the 1st ACP in the year 2003. The 2nd ACP became due on 01.04.2013. However, in the meantime, the post held by the petitioner, originally classified as a Class-IV post, was re-designated as a Class-III post w.e.f. 17.09.2010. Consequently, the petitioner was granted an upgraded pay scale from that date. In view of this re-classification, his eligibility for the subsequent ACPs was to be reckoned afresh based on his service on Class-III post. Accordingly, the next financial upgradation (i.e., 2nd ACP) would have become due to him only on 17.09.2018, upon completion of eight years of service in the upgraded category. However, since the petitioner superannuated on 31.05.2013, prior to the completion of the requisite period, he is not entitled to the 2nd and 3rd ACPs.



14. Accordingly, in light of the binding precedents laid down by the Full Bench of this Court in *Kesar Chand (supra)*, the Division Bench of this Court in *Harbans Lal (supra)*, as affirmed by the Hon’ble Supreme Court, as well as the judgment rendered by the Coordinate Bench of this Court in *Rameshwar Dass (supra)*, the present writ petition is allowed. The respondents are directed to count the petitioner’s *ad hoc* service rendered from 15.12.1983 to 31.03.1993 as qualifying service for all pensionary benefits, including gratuity, pension and increments and decide the claim of the petitioner within a period of three months from the date of receipt of certified copy of this judgment. If the petitioner is found eligible for any arrears, the payment thereof shall be made within a period of three months from the date of determination of such arrears, however, the said arrears shall not carry any interest.

15. Pending application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

17.09.2025
yakub

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