



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

115/2

LPA-2209-2025 (O&M).

Date of Decision: 21.08.2025.

State of Punjab and others

....Appellants.

VERSUS

Raj Kumar and others

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Arundhati Kulshreshtha, Assistant Advocate General, Punjab
for appellants No.1 and 2.

Mr. Anil Kumar Sharma, Advocate for appellants No.3 and 4.

Mr. Neeraj Sharma, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J. (Oral)

CM-5579-LPA-2025 IN LPA-2209-2025

This application is for condonation of delay of 91 days in filing
the appeal.

Heard.

For the reasons stated in the application, the same is allowed and
delay of 128 days in filing the appeal is condoned.

LPA-2209-2025

The appellants have challenged the judgment of the Single Bench
dated 19.03.2025, whereby the writ petition preferred by the respondents for
counting the service rendered on work charge basis towards leave
encashment, has been allowed.

2. Learned counsel for the appellants submits that the respondents

were working on work charge basis prior to their regularization and the services rendered by them on work charge basis cannot be counted for leave encashment. She further submits that the claim of the respondents is impermissible in view of the instructions dated 25.08.2016 issued by the Department of Finance, Government of Punjab, which would be applicable to the respondents.

3. At this stage, Mr Neeraj Sharma, Advocate, puts in appearance on behalf of the respondents and submits that this Court in the judgment in the case of **Balbir Singh vs. State of Punjab and others, CWP No.6643 of 2011**, decided on 15.01.2013, had held that in view of Rule 8.133 of the Punjab Civil Services Rules, an employee at the time of regularization, is entitled to carry forward the medical leave and earned leave which he had accumulated during his service rendered as a work charge employee. This judgment has attained finality and the case of the respondents is squarely covered by the judgment in **Balbir Singh (supra)**.

4. Heard.

5. The respondents No.1,2 and 5 were working as Silt Observers, whereas respondents No.3, 4 and 6 were working as Assistant Lab Attendants on work charge basis in the Irrigation Department, Punjab, since 1985/ 1986. The services of the respondents, who were working on work charge basis, were regularized by the appellants on 12.08.2003. The respondents had requested the appellants to give them the benefit of leave encashment for the period of service rendered by them on work charge basis which was declined. Aggrieved, the respondents preferring writ petition, which was allowed by the Single Bench vide judgment dated 19.03.2025. The appellants have challenged the said judgment in the instant Letters Patent Appeal.

6. We deem it appropriate to refer to the relevant Rules relating to 'earned leave'. Clause (iv) of Rule 8.113 contained in Chapter VIII, Vol-I of the Punjab Civil Services Rules, provides for 'earned leave due' and states that earned leave due shall be calculated in the manner prescribed in rules 8.116, 8.117 and 8.133, as the case may be, and shall be diminished by the amount of earned leave taken by him under these rules. For ready reference, Rule 8.113 and 8.116 are reproduced hereunder:-

"8.113. In the rules in this section –

(iv) "earned leave due" means the amount of earned leave to the credit of a Government employee, calculated in the manner prescribed in rules 8.116, 8.117 and 8.133, as the case may be, diminished by the amount of earned leave taken by him under these rules;"

xxx xxx

8.116. (i) The earned leave admissible to a Government employee in permanent employ is :–

(a) 1/24th of the period spent on duty, during the first 10 years of his service;

(b) 1/18th of the period spent on duty during the next 10 years of his service; and 1/12th of the period spent on duty, thereafter. Note 1.–For the purpose of assessing the "length of service" under this sub-rule, break in service caused as a result of retrenchment shall not entail forfeiture of previous service. Further, in the case of women Government employees break in service due to resignation as a result of family circumstances of the Government employee concerned, shall also be condoned by the re-appointing authority; provided the duration of break does not exceed 10 years.

Rule 8.133 provides that the provisions of Rules 8.116 to 8.119, are applicable to the government employees who are not in permanent employment. For ready reference, Rule 8.133 is reproduced hereunder:-

"8.133. The provisions of rules 8.116 to 8.119 apply also to a Government employee not in permanent employ, provided that–

(a) no half pay leave shall be granted unless the authority competent to sanction leave has reason to believe that the officer will return to duty on its expiry; and

(b) leave not due for a period not exceeding 360 days during the entire service shall not be granted to such an employee unless he is suffering from T.B., Leprosy, Cancer or mental illness and the following conditions are fulfilled:—

(i) that the Government employee has put in a minimum of one year's service;

(ii) that the post from which the Government employee proceeds on leave is likely to last till his return to duty; and

(iii) the request for the grant of such leave is supported by a medical certificate of the authorised Medical Attendant.”

6. It is manifest from a bare reading of the aforesaid Rules that the benefit of leave encashment is extended even to those employees who are not permanent employees. Therefore, there does not seem to be any illegality in the judgment of the Single Bench wherein it has been held that the respondents would be entitled to the benefit of counting of the service period rendered on work charge basis prior to their regularization, towards computation of leave encashment.

7. Learned counsel for respondent has relied upon the judgment of the Single Bench of this Court in the case of **Balbir Singh vs. State of Punjab and others, CWP No.6643 of 2011**, decided on 15.01.2013, wherein it was held that in accordance with Rule 8.133 of the Punjab Civil Services Rules, at the time of regularization, the employee would be entitled to carry forward the medical leave and earned leave, which had accumulated during the service rendered by him on work charge basis. In the above mentioned judgment, it has been observed that the import of Rule 8.133 of the Punjab Civil Services Rules, has not been controverted by the respondents therein in their reply. The said judgment is stated to have attained finality. Applying this legal proposition to the instant case, we are of the view that it would be justified to count the 'length of service' by including the services rendered by

the respondent on work charge basis prior to his regularization, for calculating the benefit of leave encashment.

8. It is settled law that once the benefit has been extended to an employee, the same ought to be extended to other similarly situated employees as well. We draw support from the judgment of the Supreme Court in the case of **State of Uttar Pradesh and others vs. Arvind Kumar Srivastava and others, (2015) 1 SCC 347**. The relevant extract of the said judgment is reproduced hereunder:-

“22.(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.”

9. Consequently, we do not find any illegality in the judgment of the Single Bench warranting interference by this Court. Consequently, the Letters Patent Appeal being devoid of any merit stands dismissed.

10. Pending application(s), if any, also stands disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

21.08.2025

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No