

CWP-22001-2025
CWP-22056-2025
CWP-22072-2025

2025:PHHC:105646



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

244+245+246

Date of decision: 13.08.2025

1. CWP-22001-2025 (O&M)

Shiv Chander Giri
.....Petitioner
Versus
State of Haryana and others
.....Respondents

2. CWP-22056-2025 (O&M)

Bakshish Singh
.....Petitioner
Versus
State of Haryana and others
.....Respondents

3. CWP-22072-2025 (O&M)

Ganesh Mehto
.....Petitioner
Versus
State of Haryana and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Narinder Singh Behgal, Advocate
for the petitioner(s) in all the cases.

Mr. Piyush Khanna, Addl. A.G., Haryana
for respondent No.1 in all the cases.

Mr. Sandeep Kashyap, Advocate
for Mr. Vikrant Pamboo, Advocate
for respondents No.2 to 7 in all the cases.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CWP
Nos.22001, 22056 and 22072 of 2025, as common questions of law and



facts are involved for adjudication. For the sake of convenience, facts are taken from CWP-22056-2025.

2. Prayer in all these writ petitions filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the speaking order No.147 dated 23.01.2019 (in CWP-22001-2025), speaking order No.57 dated 04.04.20185 (in CWP-22056-2025) and speaking order No.158 dated 25.02.2019 (in CWP-22072-2025), vide which the claim of the petitioner(s) for counting their past services rendered with Haryana State Minor Irrigation and Tubewell Corporation (hereinafter to be referred as 'HSMITC') for the purpose of regularization in Haryana State Electricity Board (in short 'HSEB') towards their qualifying service, has been rejected. Further a writ of mandamus has been sought, directing the respondent – Department to count the work-charge period of the petitioner(s), detailed in the prayer clause of the aforementioned writ petition(s), and refix their pension and pensionary benefits along with arrears and disbursed the same to them.

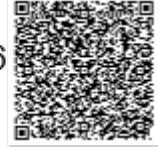
3. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner – Shiv Chander Giri joined HSMITC as Fitter on 13.08.1972 and served HSMITC till 01.07.1989. Thereafter, he was transferred in HSEB and worked there from 01.07.1989 to 15.05.1992 as work charge employee (being Junior Fitter). He was regularized w.e.f. 15.05.1992. The petitioner – Shiv Chander Giri superannuated on 31.12.2012. Thereafter, he filed CWP No.16564 of 2018 before this



Court seeking counting of his past service towards qualifying service for pension and this Court, vide order dated 11.07.2018, directed the respondent to decide the claim of the petitioner on the basis of legal notice served upon the respondent/Board within a period of three months. Thereafter, the respondent/Board, vide impugned order dated 23.01.2019, rejected the claim of the petitioner.

4. Similarly, the petitioner – Bakshish Singh joined HSMITC as Junior Fitter on 11.05.1981 and served HSMITC till 07.11.1988. Thereafter, he was transferred in HSEB and worked there from 07.11.1988 to 16.05.1992 as work charge employee (being Electrician). He was regularized w.e.f. 16.05.1992. The petitioner – Bakshish Singh superannuated on 28.02.2005. Thereafter, he filed CWP No.14768 of 2017 before this Court seeking counting of his past service towards qualifying service for pension and this Court, vide order dated 12.07.2017, directed the respondent to decide the claim of the petitioner on the basis of legal notice served upon the respondent/Board within a period of three months. Thereafter, the respondent/Board, vide impugned order dated 04.04.2018, rejected the claim of the petitioner.

5. Moreover, the petitioner – Ganesh Mehto joined HSMITC as Junior Fitter on 31.10.1973 and served HSMITC till 01.07.1989. Thereafter, he was transferred in HSEB and worked there from 01.07.1989 to 15.05.1992 as work charge employee (being Junior Fitter). He was regularized w.e.f. 15.05.1992. The petitioner – Ganesh Mehto superannuated on 31.08.2012. Thereafter, he filed CWP

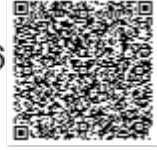


No.25113 of 2018 before this Court seeking counting of his past service towards qualifying service for pension and this Court, vide order dated 16.10.2018, directed the respondent to decide the claim of the petitioner on the basis of legal notice served upon the respondent/Board within a period of three months. Thereafter, the respondent/Board, vide impugned order dated 25.02.2019, rejected the claim of the petitioner.

6. Learned counsel for the petitioner(s) further submits that HSEB was bifurcated into different limited companies and thereafter, all the petitioner(s) became part of UHBVNL and subsequently, due to COVID-19 pandemic, the petitioner(s) could not approach this Court, however, in view of the recurring cause of action, the present petitions are maintainable in terms of the Full Bench judgment of this Court in ***Saroj Kumar vs. State of Punjab, 1998 (3) SCT 664.***

7. On the other hand, learned State counsel and learned counsel appearing for the private respondents, could not controvert the factual position and the judgment relied upon by learned counsel for the petitioner(s).

8. Having learned counsel for the parties and after perusal of the record, it transpires that the service rendered by the petitioner(s) in the erstwhile HSMITC and HSEB, has not been counted towards qualifying service for pension. The Full Bench of this Court in ***Kesar Chand and others vs State of Punjab and others, 1988(5) SLR 25***, has considered the issue *in extenso* and concluded that the work charge service rendered before regularization, is liable to be counted as



qualifying service for the purpose of calculating the pensionary 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 The for determining the qualifying service. 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."

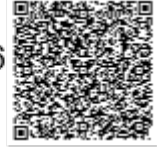
9. Further the similar issue came up for consideration before the Division Bench of this Court in **"Harbans Lal Vs. State of Punjab and others"**, 2012(3) SCT 362, wherein it was held that the entire daily



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 aforesaid authoritative pronouncements of the Full Bench of this Court in ***Kesar Chand’s case (supra)***, the Division Bench of this Court in ***Harbans Lal’s case (supra)***, as upheld by the Hon’ble Supreme Court, as well as the Coordinate Bench of this Court in ***Rameshwar Dass’s case (supra)***, the present writ petitions deserve to be allowed. The service rendered by the petitioners in the erstwhile HSMITC and subsequently in the HSEB, prior to their regularization, is liable to be counted towards qualifying service for the purpose of pensionary benefits.



13. Accordingly, all the writ petitions are disposed of, subject to the following conditions:

(i) The petitioners, namely Shiv Chander Giri, Bakshish Singh and Ganesh Mehto, shall furnish evidence of membership of the Employees’ State Insurance (ESI) or Employees’ Provident Fund (EPF) within a period of 30 days from today.

(ii) Upon furnishing of such evidence, the respondents, subject to the petitioners’ compliance with the requisite conditions as may be pointed out by them, shall decide the claim of the petitioner(s) for counting their past service towards qualifying service for pension, within a period of three months from the date of receipt of such evidence.

(iii) If the petitioner(s) are found eligible for arrears of pensionary benefits, the payment thereof shall be made within a period of three months from the date of determination of such arrears. The arrears shall not carry any interest.

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

15. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

13.08.2025

yakub

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