



**286+287 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-21492-2023
Date of Decision:17.07.2025

Rameshwar Dass
Vs.
State of Haryana and Others
And
...Petitioner
...Respondents

Sr. No.	Case No.	Petitioner(s)	Respondent(s)
2.	CWP-21524-2023	Parveen Kumar Gupta	State of Haryana and Others
3.	CWP-23576-2023	Tilak Raj	State of Haryana and Others
4.	CWP-23581-2023	Ram Kishan	State of Haryana and Others
5.	CWP-23591-2023	Inderjeet	State of Haryana and Others
6.	CWP-23603-2023	Ramesh Kumar Kalra	State of Haryana and Others
7.	CWP-23606-2023	Jagdish Singh	State of Haryana and Others
8.	CWP-23624-2023	Shiv Kumar	State of Haryana and Others
9.	CWP-24120-2023	Bir Bhan	State of Haryana and Others
10.	CWP-24131-2023	Lila Krishan	State of Haryana and Others
11.	CWP-21779-2023	Som Dutt	State of Haryana and Others
12.	CWP-23821-2023	Ram Parshad	State of Haryana and Others
13.	CWP-25680-2021	Swarn Jit Kaur	State of Haryana and Others

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Narinder Singh Behgal, Advocate
for the petitioner(s) in
**CWP Nos.21492, 21524, 23576, 23581, 23603, 23624,
24120, 24131, 21779 and 23821 of 2023.**

None for the petitioner(s) in
**CWP Nos.23591 & 23606 of 2023 and
CWP No. 25680 of 2021.**

Mr. Raman Sharma, Addl. A.G., Haryana.

Ms. Nikita Goel, Advocate for
respondent-Nigam in
CWP Nos.23581, 23606, 23624, 21779 and 23821 of 2023.

Mr. Padamkant Dwivedi, Advocate and
Ms. Mansi, Advocate for respondents No.2 to 7 in
**CWP Nos.21492, 21524, 23591, 23576, 23603, 24120 and
24131 of 2023.**

Mr. Shubham Sharma, Advocate for
Mr. Rajesh Gaur, Advocate
for respondents No.2 to 7 in **CWP No.25680 of 2021.**

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-21492-2023**.

2. Mr. Narinder Singh Behgal, Advocate has put in appearance on behalf of the petitioner(s) and filed his power of attorney in CWP Nos.21492, 21524, 23576, 23581, 23603, 23624, 24120, 24131, 21779 and 23821 of 2023.

3. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside the order

dated 14.11.2020 whereby respondent has rejected his claim for counting his service rendered with Haryana State Minor Irrigation & Tubewell Corporation (hereinafter referred to as the 'HSMITC') from 15.07.1978 to 07.11.1988 and with Haryana State Electricity Board (hereinafter referred to as the 'HSEB') from 07.11.1988 to 15.05.1992 towards his qualifying service.

4. The petitioner joined HSMITC on 15.05.1978 as Electrician 1st Grade. He served HSMITC till 07.11.1988. He was transferred to HSEB. He worked with HSMITC from 07.11.1988 to 15.05.1992 as work charge employee. He was regularized w.e.f. 15.05.1992. It is apt to mention here that HSEB was bifurcated into different limited companies. The petitioner became part of UHBVNL. He superannuated on 30.04.2017 on attaining the age of 58 years. He filed **CWP No.3950 of 2012** before this Court seeking counting of his past service towards qualifying service for pension. This Court vide order dated 23.05.2019 directed the respondent to decide claim of the petitioner treating writ petition as his representation. The respondent, by impugned order dated 14.11.2020, has rejected his claim.

5. Mr. Narinder Singh Behgal, Advocate submits that the petitioner's case is squarely covered by judgment of this Court in '**Jai Bhagwan Vs. State of Haryana and Others**', 2024 SCC OnLine P&H 15557.

6. Mr. Padamkant Dwivedi and Ms. Nikita Goel, Advocates submit that there are three conditions postulated by Rule 3.17-(A)(g) of Punjab Civil Services Rules (Volume II) (as applicable to State of

Haryana) which are to be complied with for counting service rendered with previous organization. The petitioner does not comply with third condition i.e. whole-time employment. The petitioner was working with HSMITC on part time basis which is evident from the fact that he was working on work charge basis. There is no evidence of deposit of EPF, ESI, PF, CPF or any other contribution to prove that petitioner was working as whole-time employee. In the absence of any evidence, the petitioner could not be treated as full time employee.

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

8. A Division Bench of this Court in the case of **Jai Bhagwan** (*supra*) has considered the issue involved. The relevant extracts of the judgment read as:

“15. The appellant is claiming that Rule 3.17-A applicable to State of Haryana is different from State of Punjab. The said rule as reproduced in the paper-book is noted as below:

“3.17-A. (a) All service interrupted or continuous followed by confirmation shall be treated as qualifying service; the period of break shall be omitted while working out aggregate service.

(b) Extraordinary leave counted towards increments under rule 4.9 (b) (ii) of Punjab Civil Services Rules, Volume-1, Part-I, will be accounted towards service qualifying for pension.

(c) Periods of suspension, dismissal, removal, compulsory retirement followed by reinstatement will count for pension to the

extent permissible under rule 4.17 of Punjab Civil Services Rules Volume-II read with rule 7.3 of the Punjab Civil Services Rules, Volume-I, Part-I.

(d) Resignation from the public service or dismissal or removal from it for misconduct, insolvency, inefficiency, not due to age, or failure to pass a prescribed examination will entail forfeiture of past service terms of rule 4.19 (a) of Punjab Civil Service Rules Volume-II.

(e) An interruption in the service of a Government employee caused by wilful absence from duty and unauthorized absence without leave will as hitherto entail forfeiture of past service.

Explanation.- The willful refusal to perform duties by a Government employee by any means including pen down strike shall be deemed to be willful absence from duty.

(f) Employees retiring from Government service without confirmation (as temporary employees) in any post on or after 5 February, 1969 will be entitled to invalid/retiring/ superannuation pension and death-cum-retirement gratuity on the same basis as admissible to permanent employees. In case of death of employees in service his family will also be entitled to similar benefits as are admissible to the families of permanent employees. This concession will, however, not apply to:

(i) Persons paid from contingencies; provided that [full period] of service of such a persons paid from contingencies rendered from 1 January, 1973 onwards for which

authentic records of service is available will count as qualifying service subject to the following conditions:-

(a) Service paid from contingencies should have been in a job involving whole time employment and not part time for a portion of day, (a) Service paid from contingencies should have been in a job involving whole time employment and not part time for a portion of day.

(b) Service paid from contingencies should be in a type of work or job for which regular post should have been sanctioned e.g. Malis, Chowkidars, Khalasis etc.

(c) The service should have been such for which the payment is made either on monthly or daily rates computed and paid on a monthly basis and which though not analogous to the regular scale of pay should bear some relations in the matter of pay to those being paid for similar jobs being performed by staff in regular establishments; and

(d) The service paid from contingencies should have been continuous and followed by absorption in regular employment without a break.

Note.- While bringing contingent paid employee to the regular establishment an entry for verification of contingent service should be made at the appropriate place in his service book, preferably before making

any entry regarding his regular service in the following manner:

"Service from _____ to _____ paid out of contingencies verified from acquittance rolls and office copies of contingent bills". This entry should be signed by the Head of Office with date.

(ii) Deleted.

(iii) Casual Labour;

(iv) Contract Officer; and

(v) Persons born on Contributory Provident Fund Establishment.

(g) The entire service rendered by an employee as work charged shall be reckoned towards retirement benefits provided-

(i) such service is followed by regular employment:

(ii) there is no interruption in the two or more spells of service or the interruptions fall within condonable limits; and

(iii) such service is a whole time employment and not part-time or portion of day."

[Emphasis Supplied]

16. *The appellant is relying upon Clause (g) of aforesaid rule. From the perusal of aforesaid clause (g), it comes out that service rendered by an employee as work charged shall be reckoned for all retiral benefits provided such service is followed by regular employment, there is no interruption in two or more spells of service or the interruption fall within condonable limits and such service is a whole time employment and not part-time or portion of day. The appellant claims that respondent was working as*

a part-time employee, thus, Rule 3.17-A is inapplicable to him. Neither from the pleadings nor from impugned order, it can be culled out that respondent had rendered service as work charged. He had worked with a school which operates around the year. If it is assumed that respondent was employed as work charged still his service cannot be ignored because he had worked for almost two decades without interruption. It is difficult as well as highly improbable to believe that a Government school has appointed a peon or water-carrier for 3-4 hours a day. A peon or water-carrier is required for as long hours as teachers and students remain in the school. The appellant-State by tagging respondents as part-time employees has misused its position and exploited them. Unemployment in the nation is well known. A long service of two decades cannot be assumed to be a part-time service. It appears that appellant uninterruptedly availed service of respondents for two decades and in the guise of part-time employment, deprived them from their valuable right of pay and other allowances. Service of respondent was regularized after two decades and he worked without interruption. Sub-Clause (ii) of clause (g) of Rule 3.17-A contemplates interruption in two or more spells of service because in case of a work charged employee there are always possibilities of interruption in service. Clause (a) of the aforesaid rule clearly provides that interrupted or continuous service followed by confirmation shall be treated as qualifying service. The period of break is omitted by calculating aggregate service. The respondent has worked without interruption and break, thus, it would be travesty of justice, if it is concluded that they are not entitled to counting of service rendered before their regularization.”

9. In the case in hand, the petitioner worked with HSMITC from July' 1978 to November' 1988. He further worked with HSEB from

November' 1988 to May' 1992 as work charge employee. He was regularized w.e.f. 15.05.1992. As per respondent, petitioner does not comply with condition No.(iii) of Clause (g) of aforestated rule. The petitioner had worked for 14 years with aforestated organization as work charge employee. It is highly improbable to believe that he was working on part time basis, however there is no concrete evidence to conclude that he was working as whole-time employee. It is irrelevant whether he was getting salary on DC Rate or as contractual employee and the only relevant question is whether he was full time employee or part time employee.

10. Mr. Padamkant Dwivedi, Advocate, during the course of hearing suggested that if the petitioner is able to submit proof of deposit with ESI or EPF, he may be considered as full time employee.

11. Faced with this, Mr. Narinder Singh Behgal, Advocate submits that the petitioner would submit evidence of membership of ESI or EPF.

12. In the wake of judgment of this Court in the case of ***Jai Bhagwan*** (*supra*) and submissions of both sides, the petitions stand ***disposed of*** with the following directions:

(i) The petitioners would furnish evidence of membership of ESI or EPF within 30 days from today;

(ii) If the petitioners furnish aforesaid evidence, the respondent subject to compliance of requisite conditions by petitioners as pointed out by respondent, would decide claim of petitioners within three months from the date of furnishing aforesaid evidence.

(iii) If the petitioners are found eligible to arrears, the payment of arrears shall be made within three months from the date of determination of arrears. The arrears will not carry interest.

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

(JAGMOHAN BANSAL)
JUDGE

17.07.2025
Prince Chawla

Whether Speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No