



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

**RSA-3070-2024 (O&M)  
Reserved on :19/08/2025  
Date of Decision: 15.09.2025**

Liyakat

.....Appellant

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Karan Bhardwaj, Advocate with  
Mr. Pardeep Kumar, Advocate,  
Mr. Ishaan, Advocate and  
Mr Amtiaz Singh, Advocate  
for the appellant.

Mr. Harish Nain, AAG, Haryana

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**SUDEEPTI SHARMA J. (Oral)**

1. The present appeal is preferred against judgment and decree dated 31.07.2024 passed by Additional District Judge, Karnal, whereby, appeal filed by respondent-State against judgment and decree dated 24.01.2018 passed by Civil Judge (Junior Division), Karnal, was allowed.

**BRIEF FACTS OF THE CASE**

2. Brief facts of the case are that appellant retired from the post of Jeep Driver from the office of respondent on 31.01.2012 after attaining the age of superannuation. Service of appellant was regularized w.e.f. 31.01.1996 as per the judgment and decree dated 03.09.2001 passed by



learned Civil Judge (Junior Division) Karnal which was upheld by learned Additional District Judge Karnal.

3. Appellant worked with the respondent department as daily wager from 09.12.1984 till 01.01.1996 prior to date of regularization and as such rendered about 12 years service as work charge/daily wager in the respondent department.

4. Since his 12 years work charge/daily wager service was not counted for pensionary benefits, therefore, he filed civil suit which was decreed in his favour by learned Civil Judge (Junior Division) Karnal vide judgment and decree dated 24.01.2018 and respondent-State filed appeal against judgment and decree dated 24.01.2018 which was allowed by Additional District Judge, Karnal vide its judgment and decree dated 31.07.2024. Hence, the present regular second appeal.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES**

5. Learned counsel for the appellant contends that learned First Appellate Court allowed the appeal filed by respondent-State on the ground that civil suit was filed beyond the prescribed limitation period of 3 years, without appreciating the very fact that claim for pensionary benefits is recurring cause of action and limitation would not be applicable.

6. Learned First Appellate Court further held civil suit filed by the appellant to be barred under Order II Rule 2 CPC on the ground that the appellant instituted a civil suit on 12.01.1999 whereby he sought relief of regularization of his services w.e.f. 31.01.1996 and he never sought the relief which is prayed for in the present civil suit regarding counting of his work charge service for pensionary benefits, without appreciating the fact that in



the year 1999 the appellant was in service and he was not apprehending that his work charge/daily wage service would not be counted as qualifying service for pensionary benefits.

7. Per contra learned counsel for the respondent contends that learned First Appellate Court has rightly allowed the appeal filed by the respondent.

8. I have heard learned counsel for the parties and perused the whole record of the present case.

9. The issue involved in the present appeal is as to whether work charge/daily wage service rendered by the appellant before regularization will be counted as qualifying service towards pensionary benefits.

10. Undisputedly, appellant worked in the respondent department as daily wager from 09.12.1984 till 01.01.1996. His services were regularized w.e.f. 31.01.1996. He retired on 31.01.2012 after attaining the age of superannuation.

11. Learned First Appellate Court allowed the appeal filed by the respondent on two grounds.

First, that the appellant instituted a civil suit on 12.01.1999 which was decided on 03.09.2001 and he could seek the relief of counting his work charge service for pensionary benefits in the civil suit instituted on 12.01.1999 itself. Therefore, the civil suit instituted now in the year 2016 is barred by limitation.

The second reason for allowing the appeal filed by respondent is that the civil suit is filed beyond the period of 03 years from the date of



accrual of cause of action to the appellant and, therefore, the civil suit filed in the year 2016 is hopelessly time barred.

This reasoning given in allowing the appeal is not acceptable to this Court.

12. A perusal of the record shows that learned Additional District Judge, Karnal held suit filed by the appellant to be barred under Order II Rule 2 CPC without appreciating the fact that in previous civil suit filed by the appellant, he sought relief of regularization of his services w.e.f. 31.01.1996. And since he was in service at that point of time, he could not apprehend that his work charge/daily wage service would not be counted for pensionary benefits. Therefore, the suit was filed when cause of action arose and was not barred under Order II Rule 2.

13. Further learned Additional District Judge, Karnal did not appreciate that pension is recurring cause of action and limitation would not apply to the same.

14. Appellant retired in the year 2012 and he was representing the department regarding the relief of counting of his work charge service as qualifying service for pensionary benefits but still the benefit was not granted to him, therefore, he filed civil suit in the year 2016. In the civil suit, the appellant was asking for counting of his work charge service as qualifying service for pensionary benefits which is recurring cause of action, therefore, there is no delay in filing the civil suit.

15. The question involved in the present appeal is no more *res integra*.



16. Full Bench of this Court in ***“Kesar Chand Vs. State of Punjab through the Secretary, P.W.D.B. & R. Chandigarh and others [1988 (5) SLR 27]”*** held that pension is right to property and government servant cannot be deprived of this right. Further that period of service spent by an employee in a work charge establishment before his regularization has to be counted as qualifying service towards pensionary benefits.

17. Hon’ble Supreme Court in ***“S.D. Jayaprakash and ors. Etc. Vs. The Union of India & Ors.[2025 INSC 594]”*** held that contractual service rendered prior to regularization must be counted towards pensionary benefits.

18. In view of the above, present regular second appeal is allowed. Judgment and Decree dated 31.07.2024 passed by Additional District Judge, Karnal is set aside. Judgement and decree dated 24.01.2018 passed by Civil Judge (Jr. Division), Karnal is upheld.

15.09.2025

(SUDEEPTI SHARMA)

Sahil

JUDGE

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