

2025:PHHC:012088



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

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**CWP-28749-2023
Date of decision: 27.01.2025**

ANGOORI

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ajay Chaudhary, Advocate
for the petitioner.

Mr. P.C. Goyal, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the impugned office order No. 39 dated 11.12.2023 (Annexure P-4) whereby claim of the petitioner for grant of pension has been rejected.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was appointed as daily wager, Beldar and that her services were terminated illegally without following the procedure prescribed in the Industrial Disputes Act, 1947. Against the said decision, the petitioner sought a reference to the Labour Court which such reference was allowed in favour of the petitioner vide Award dated 22.04.2013 granting her benefit of



reinstatement with continuity of service. The operative part of the Award passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat is extracted as under:-

“15. In view of my findings on the above-discussed issues, as discussed in the preceding paragraphs, this reference is decided in favour of the work-lady to the effect that she is entitled to reinstatement with continuity of service and 25% back wages from the date of Demand Notice, i.e. 14.7.06 and an Award is passed accordingly.”

3. Counsel for the petitioner contends that the said Award was never challenged and was implemented by the respondents by passing an order of regularization in favour of the petitioner w.e.f. 01.10.2003 in light of the directions issued by this Court in CWP-14849 of 2016 titled as *“Savitri and others versus State of Haryana and others”* directing regularization of services. The petitioner eventually superannuated on 31.12.2012 after having rendered 09 years and 03 months of regular service. He contends that the petitioner submitted her claim for grant of pension, however, as the same was not being considered, hence, the petitioner approached this Court by way of CWP-1701 of 2021. The said writ petition was disposed of by this Court vide order/judgment dated 13.10.2023 directing the respondents to take a decision on the pending representation/claim submitted by the petitioner. In compliance thereto, the impugned order has been passed by the respondents. The relevant part thereof reads thus:-

2. The benefit of pension has been given to the petitioner no. 1, Savitri Devi as her past temporary



service from 01.11.1998 to 30.09.2003 was continued and there was no break, as such, this period of service was liable to be counted so as to grant her the benefit of pension. Whereas in case of petitioner no.2 Angoori, the period of temporary past service from the year 1995 to 2003, if counted comes to only 08 months and 13 days and there is long break in said service. That as per the record maintained by this office, total period of service of Angoori is 9 years 3 months and thus falls short of the requisite period to avail benefit of pension.

3. **Legal Position:** *As per rule 32 of Chapter-VI of Amount of Pension of the Haryana Civil Services (Pension) Rules, 2016 and according to Rule 3.17 A of Punjab Civil Service Rules Volume-II Chapter-III (Haryana State), the petitioner has not completed the required number of years of service for qualifying the services for the pension as the minimum qualifying services required for pension is 10 years and hence the petitioner no. 2 Angoori is not entitled for pension.*

4. *According to Rule 3.17 A of Punjab Civil Service Rules Volume-II Chapter-III (Haryana State), the aforesaid period for which the Petitioner No. 2 Angoori worked, is not liable to be counted towards release of pension to her.*

The relevant part of the said rule is reproduced here:-

"(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-I, 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-1.

(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 in 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 willful absence from duty and unauthorized absence without leave will as hither to 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 a re-



admissible to the families of permanent employees. This concession will, however, not apply to:

(1) Persons paid from contingencies; provided that [full period] of service of such persons paid from contingencies rendered from 1st 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,

(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."

5. As per rule 32 of Chapter- VI of Amount of Pension of the Haryana Civil Services (Pension) Rules, 2016 the minimum qualifying services required for pension is 10 years. Rule 32 of Chapter VI of Amount of Pension of the Haryana Civil Services (Pension) Rules, 2016 is reproduced herein below:-



“32 Minimum qualifying service for Monthly Pension:-

The minimum qualifying services required for pension is 10 years. On retirement from services on whatsoever reason before completion of qualifying services of 10 years, pension shall not be admissible. In such a case, service gratuity in addition to retirement gratuity, if otherwise admissible under these rules, shall be granted in lieu of pension.

Exception: *The Condition of minimum 10 years qualifying service shall not be applicable in case of invalid pension.*

Note-*The length of qualifying service of 9 years and 9 months shall be treated as 10 years qualifying services for the purpose of this rule..."*

6. That from the perusal of the above stated rules/provisions, and keeping in view the fact that the petitioner has not completed the required numbers of years for qualifying the services for the pension, it is submitted that Angoori is not entitled for pension.

Hence the petitioner no.-2 (Angoori) is not entitled for pension.

4. Referring to the above, learned Counsel for the petitioner contends that the respondents have themselves made a reference to Rule 3.17 (A) of the Punjab Civil Service Rules, Volume-II, Chapter-3 (Haryana State) as per which all services whether interrupted or continuous, which are followed by confirmation have to be treated as qualifying service by excluding the period of break. He contends that as per the factual narration



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noticed by the respondents themselves in the above said order, the said period would come to 08 months and 13 days in relation to petitioner-Angoori. Further, there is an uninterrupted regular period of service from 01.10.2003 to 31.12.2012 spanning over a period of 09 years and 03 months. It is submitted that the said period thus ought to be added up to the period of qualifying service rendered by the petitioner and on the benefit being given, the petitioner would be deemed to have rendered a total qualifying service of 09 years 11 months and 13 days. She would thus be short of mere 17 days of rendering the qualifying service. He contends that a perusal of Rule 32 of Chapter VI of Amount of Pension of the Haryana Civil Services (Pension) Rules, 2016 and as per the note appended thereto, the length of qualifying service of 09 years and 09 months has to be treated as 10 years for computing the qualifying service for monthly pension. It is submitted that the petitioner having rendered a service of 09 years and 11 months, she would be covered under Rule 32 for being extended the benefit of monthly pension when such rule is interpreted in light of the note appended thereto.

5. Reliance is also placed on the various precedent judgments of this Court including the judgment in the matter of ***“Jagtar Singh versus State of Punjab and others”*** in CWP-7889 of 2014 as well as CWP-26505 of 2014 titled ***“Shamsher Singh versus State of Haryana and others”*** decided on 15.01.2016.

6. Counsel appearing on behalf of the respondent-State although made an arduous attempt to contend that the petitioner does not fall in the qualifying service, however, he is not in a position to dispute that the period



as noticed in the impugned order and extracted in the reply filed on behalf of the respondent-Department clearly shows that the duration of service of 08 months and 13 days from the period of 1995 to 2003 is to the credit of the petitioner and that the service rendered during the said period has been followed by confirmation and as such, in view of a correct application of Rule 3.17, the same would be liable to be counted towards the period of actual service rendered by the petitioner so as to complete qualifying service for monthly pension. The note to Rule 32 is also not disputed as per which, a qualifying service of 09 years and 09 months or/and above has to be considered as satisfying the 10 years qualifying service for the monthly pension.

7. In view of the aforesaid uncontroverted position, the petitioner would thus be assumed to have rendered a qualifying service of 09 years, 11 months and 13 days and hence, would be entitled to minimum monthly pension under Rule 32.

8. In view of the factual aspects extracted above and in light of the precedent judgments of this Court, the present writ petition is allowed and the impugned office order No. 39 dated 11.12.2023 (Annexure P-4) is set aside. The petitioner is held entitled to the pension in terms of Rule 32 of Chapter –VI of Amount of Pension of the Haryana Civil Services (Pension) Rules, 2016. The respondents are directed to re-calculate the financial benefits as are admissible to the petitioner and to disburse the admissible benefits within a period of three months of receipt of certified copy of this order. Needless to mention that in case the said benefits are not disbursed,



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the petitioner shall be entitled to an interest @ 6% per annum from the date of filing of the present writ petition till its actual disbursement.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 27, 2025
Vishal Sharma

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