



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

111

CWP-34660-2025 (O&M)
Date of decision: 11.12.2025

Jaswant Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

Mr. Sanjeev Soni, Advocate
with Mr. Tara Dutt, Advocate
for respondents No.2 and 3.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned speaking order dated 15.10.2025 (Annexure P-9) passed by respondent No.2. Further a writ of *mandamus* has been sought, directing the respondents to count the services of the petitioner as regular employee from the date of initial appointment i.e. 18.06.1985 with all consequential benefits, by considering the petitioner as regular employee from the date when the employees junior to him have been regularized. Another prayer has been made to consider the case of the petitioner under the Old Pension Scheme upto the date of



retirement of petitioner i.e. 31.12.2024, which has been denied by the respondents.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was initially joined as a Daily Wager on 18.06.1985. Thereafter, he was illegally terminated and the petitioner raised an industrial dispute and the learned Labour Court in the year 1992, ordered his reinstatement with continuity of service, however, the petitioner has abandoned his back wages. Despite passing of the award granting him continuity of service as a daily wager, the petitioner was only regularized in the year 2012, after a protected litigation. The qualifying service of the petitioner was counted from 10.03.2010 and the department vide impugned order dated 15.10.2025 (Annexure P-9) has refused to count the past services of the petitioner from the year 1985 for pensionary benefits whereas the identical circumstanced juniors to the petitioner have been regularized. He further submits that denial of counting pre-regularization service of the petitioner is illegal and contrary to the award passed by the learned Labour Court. Lastly, he submits that the case of the petitioner is squarely covered by the Full Bench judgment of this Court in ***Kesar Chand and others v. State of Punjab and others, 1988(5) SLR 25***, and Division Bench judgment of this Court in ***Harbans Lal v. State of Punjab and others, 2012(3) SCT 362***.

3. *Per contra*, learned counsel for respondents No.2 and 3 submits that since the petitioner has abandoned the back wages and has



already taken all the retiral dues under the New Pension Scheme and thus, the petitioner's claim for counting pre-regularization service is untenable.

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

5. Admittedly, the learned Labour Court has concluded the industrial award with continuity of service. It is a settled law that even if the award is silent, the continuity of service would flow as a matter of right in terms of the judgment by the Hon'ble Supreme Court in ***Nandkishore Shravan Ahirrao vs Kosan Industries (P) Limited, 2020(1) SCT 709***. Further, it is undisputed that the petitioner, who joined as a daily wager on 18.06.1985, was regularized only in the year 2012 and even then his regularization was fixed as 10.03.2010, ignoring the continuity of service granted under the industrial award.

6. The issue involved in this petition has been authoritatively decided by the Full Bench of this Court in ***Kesar Chand's case (supra)***, wherein it was held that the work-charge service rendered prior to regularisation is to be counted as qualifying service for pension and other service 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 for determining the qualifying service. The 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.”

7. Furthermore, the similar issue came up for consideration before the Division Bench of this Court in ***Harbans Lal’s case (supra)***, 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. 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.”

8. 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.

9. Accordingly, in view of the aforesaid authoritative pronouncements of the Full Bench of this Court in ***Kesar Chand's case (supra)***, as well as the Division Bench of this Court in ***Harbans Lal's case (supra)***, the present petition is disposed of. The petitioner is directed to refund the amount received by him under the New Pension Scheme (NPS) along with interest at the rate of 6% per annum from the date of receipt till the date of repayment, within a period of two months



from today. Upon such deposit, the respondents shall extend to the petitioner the benefits of Old Pension Scheme and complete the exercise of counting his past service within a further period of two months from the date of receipt of certified copy of this order. If the petitioner is found entitled for any arrears or consequential benefits, the same shall be released to him within a period of two months from the date of determination of such arrears, however, the said arrears or consequential benefits shall not carry any interest.

10. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

11.12.2025
yakub

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