

2026:PHHC:048710



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

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Date of Decision: 27.03.2026.

(1) CWP-1578-2020 (O&M)

Rameshwar Dass

....Petitioner.

VERSUS

State of Haryana and others

....Respondents.

WITH

(2) CWP-23575-2014 (O&M)

Gurchain Singh and another

....Petitioners.

VERSUS

State of Haryana and another

....Respondents.

AND

(3) CWP-29056-2022 (O&M)

Prem Chand Mittal

....Petitioner.

VERSUS

State of Haryana and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ravinder Malik (Ravi), Senior Advocate with
Mr. Garvit Mittal, Advocate and
Mr. Rishab Arora, Advocate
for the petitioner (in CWP-1578-2020).

Mr. Deepak Sonak, Advocate
for the petitioners (in CWP-23575-2014).

Mr. Nischal Chetanya Manchanda, Advocate and
Mr. Vipul Malik, Advocate
for the petitioner (in CWP-29056-2022).

Mr. Vikrant Pamboo, Additional Advocate General, Haryana.

Mr. Arvind Seth, Advocate (Through Video Conferencing)
Mr. Jatin Kaushal, Advocate for respondent No.2-HSVP
(in CWP-23575-2014 and 1578-2020)

Mr. Divyansh Shukla, Advocate for
Mr. Sukhdeep Singh Parmar, Advocate
for respondents No.3 and 4 (in CWP-29056-2022).

HARPREET SINGH BRAR, J. (Oral)

The above-mentioned three writ petitions are being considered on the basis of the facts taken from CWP-1578-2020 for the sake of brevity, as these petitions raise a common question of law and involve identical issues.

2. The present civil writ petition has been filed under Articles 226 and 227 of the Constitution of India for issuance a writ in the nature of *certiorari* for setting aside the order dated 03.02.2018 (Annexure P-12), whereby the benefit of past service rendered by the petitioner in PWD (B&R), Department of Haryana, w.e.f. 21.10.1992 to 08.12.2006 for the purpose of 'qualifying service' towards pensionary and other benefits in respondent No.3-Department has been declined illegally and arbitrarily. Further, the petitioner is seeking direction to the respondents to treat the service of the petitioner in PWD (B&R) Department, Haryana, w.e.f. 21.10.1992 to 08.12.2006 as 'qualifying service' towards pensionary and other benefits in respondent-HSVP.

3. Learned senior counsel for the petitioner submits that the prime grievance of the petitioner is that the respondents have denied the benefit of past service to the petitioners rendered by them in PWD (B&R), Department of Haryana, w.e.f. 21.10.1992 to 08.12.2006 for counting it as 'qualifying service' towards pensionary and other benefits in Haryana Shehri Vikas Pradhikaran (respondent No.3), despite the fact that Haryana Urban Development Authority (HUDA), is a statutory body under the administrative control of the Government of Haryana. He further submits that the respondents have been blowing hot and cold in the same breath in spite of the fact that benefit of past service rendered in another Government Department has been given to the retired employees on their superannuation and relies upon the letters/orders dated 04.02.2005, 14.10.2004, 18.11.2011 and

15.02.2005 (Annexures P-15 to P-18 respectively), in which similarly identical circumstanced employees have been granted the benefit of counting past service for the purpose of calculating the qualifying service for pensionary benefits. He further refers to letter dated 04.02.2005 (Annexure P-15), in which it has been duly mentioned that respondent No.3-HSVP in its meeting held on 28.12.2004 has approved the proposal to implement the instructions regarding counting all past services in HUDA.

3.1 Further to establish his aforesaid contention, learned senior counsel for the petitioner refers to letter dated 01.10.2004 (Annexure P-21) and submits that vide Agenda Item No.A-94 (15), the issue regarding counting of past service for the purpose of pension of the employees of the State of Haryana was considered, which was approved on 28.12.2004 vide Annexure P-20. The said approval is available on record at Page No.111 of the paper-book, whereas the Agenda is available at Page No.113 of the paper-book. As such, the petitioner cannot be subjected to hostile discrimination after granting benefit of past service to number of employees by respondent No.3-HSVP and he further refers to the judgment rendered by this Court in ***Pritam Chand vs. State of Haryana and others, CWP No.5644 of 2013*** decided on 05.07.2022, in which the exact stand taken in the present petition was also taken the by respondent No.3-HSVP was considered and the petitioner therein was granted benefit of past service for calculating the 'qualifying service' for commuting pension and further submits that the aforesaid judgment has attained finality and has not been challenged till date. Moreover the decision taken in the 94th meeting of respondent-HSVP on 29.12.2004 has not been superseded by any other subsequent resolution. As such, the impugned order dated 03.02.2018 (Annexure P-12) issued by the Chief Administrator alone cannot in any manner prevail upon the conscious

decision taken by the authority, which is the highest decision making authority, in its meeting on 28.12.2004 (Annexure P-20).

4. *Per contra*, learned counsel for respondent-HSVP submits that respondent-HSVP is an autonomous body and any instructions issued by the Government of Haryana are not *per se* admissible to the employees of HSVP. Further, the issue regarding applicability of the instructions of the Government of Haryana were not considered in **Pritam Chand's** case (supra). As such, the petitioners have no vested right to claim benefit of the past service rendered by them in PWD (B&R), for the purpose of calculating the 'qualifying service' for commuting the pension. However, learned counsel for respondent-HSVP is not in a position to controvert the fact that identically circumstanced employees have already been granted the benefit, vide letters/ order (Annexures P-15 to P-18) and further the erstwhile HUDA, which is now HSVP has approved the Agenda Item No.A-94 (15), granting benefit of counting of past service for the purpose of pension of the employees of the Statement Government in HUDA.

5. Having heard learned counsel for the parties and after perusing the record, it transpires that the petitioners in all these three petitions have served different departments under the Haryana Government prior to joining the service of erstwhile HUDA (now HSVP). The issue regarding counting of the past service was considered by this Court in **Pritam Chand's** case (supra), in which the exact arguments raised by learned counsel for HUDA/HSVP, that it is not a department of the State Government and it is an autonomous statutory body and wholly and substantially financed by the Government of Haryana, was considered and following was observed:-

"7. In course of an earlier hearing, learned Brother Rajiv Narain Raina, J. (as he was then in this court), passed the following order dated 16.01.2019: -

“Financial Commissioner and Principal Secretary to Government of Haryana, Department of Finance is directed to file his personal affidavit explaining the contents of the affidavit of Rakesh Manocha, Engineer-in-Chief, Public Works (Building and Roads Department, Haryana) with special reference to paragraphs No. 8 & 9. He must clearly express his views on the subject of discrimination raised by the petitioner citing other than the case of Kamboj other cases, photocopies of which orders have been handed over to learned State Counsel. She may remit them to the Financial Commissioner to express his views on those cases as well. He would also express his opinion on Rule 4.19 of the Punjab Civil Services Rules Vol-I Part-I by outlining the financial status of HUDA in its relation to the State of Haryana including funding details in the affidavit. He would also disclose what is meant by 'Cess' in the rule.

List on 20.02.2019.”

8. *Apropos, an affidavit dated 16.05.2019 of Sh. T.V.S.N. Prasad, Additional Chief Secretary to Govt. Haryana, Finance Department has been filed wherein following unequivocal stand as been taken:-*

“9. That Sh. Vinod Kumar Kamboj, rendered his services as Junior Engineer from 16.12.1985 to 02.09.1996 in HSVP, but HSVP is not financed wholly or substantially from the cess or Central/ State Government grants and thus is not covered under the definition as reproduced in Para 8 above. No grant is provided to HSVP by the State Government to meet its administrative expenditure. Therefore, the Administrative Department (Irrigation) has already been advised to revisit the matter and take corrective measures in the case of Sh. Vinod Kumar Kamboj.

10. That the cases of employees other than the case of Sh. Vinod Kumar Kamboj, as have been remitted by the Learned State Counsel as per order of the Hon'ble Court, have been examined and details of their past services rendered in various government departments are enclosed in Annexure R3. The cases of all these employees (other than the case of Sh. Vinod Kumar Kamboj) are clearly distinguishable from the case of the petitioner as they have rendered their past services in various government departments, whereas, Sh. Pritam Chand, the petitioner in the present writ petition has rendered his previous services in HSVP, which is an autonomous body that is not covered by the definition reproduced in para 7 above. The cases of other employees, who have rendered their past services in various government departments are regulated by Rule 3.12 read with Rule 3.17 of the Punjab Civil Services Rules Volume-II.

11. That the petitioner Sh. Pritam Chand was an employee of HSVP, and the pay of employees of HSVP is not drawn from the consolidated fund of the State of Haryana and therefore, the provisions of the Punjab Civil Services Rules Volume-II are not applicable to the case of the petitioner. The benefit of past service rendered by the petitioner in HSVP, could only be granted to him if his case is covered in the definition of the Office Memorandum No.1/2(4)96-2FRII dated 07.01.2002 as reproduced in para 7 of this affidavit. The HSVP is an autonomous body and is governed by the Haryana Shehri Vikas Pradhikaran Act, 1977. It functions strictly in accordance with the rules and regulations framed thereunder to achieve its objects. There is no direct control of the State Government in its functioning except the limited requirements as provided in the Rules and Regulations. Act per Section 3(2) of the Haryana Shehri Vikas Pradhikaran Act, 1977, HSVP is a body corporate as well as Local Authority having perpetual succession and a common seal with powers to acquire, hold and dispose of property, both movable and immovable. Therefore, HSVP is an autonomous body and not a Department of the Government of Haryana. HSVP is not financed from any Cess or Central/ State Government grant and no grant is provided to HSVP by the State Government to meet its administrative expenditure.”

9. Besides above, following supporting stand has been taken by respondent No.3-HUDA in an affidavit dated 19.04.2017:-

“9. That the present petitioner was offered the appointment as Junior Engineer in HUDA vide memo dated 04.11.1982. The petitioner was working as Junior Engineer in HUDA in the year 2001 when the aforesaid pension regulations came to be adopted in HUDA. The matter has been examined in the office and it has been found that the petitioner has given his option, opting for the pension as per instructions dated 28.12.2001. A copy of the option given by the petitioner is attached herewith as Annexure A-3.

10. That, therefore, the petitioner has now been found to be entitled to proportionate pension for the period when he remained in HUDA from 19.11.1982 till 24.12.2007 when the petitioner was relieved from HUDA on his joining the Public Works Department in pursuance to his appointment in said department on 12.12.2007.

11. That it is further submitted that the petitioner is not a retired employee but was in active service, both at the time, when the present writ petition was filed and even at present also, as per the official record maintained in office of the deponent. Therefore, the pension for the period mentioned in para 9 as above can be considered for sanction only when the petitioner gets retired on superannuation from office of the respondent No.2 and he

completes the formalities as per rules/ instructions of HUDA.”

10. *A collective reading of the above two affidavits leaves no room for ambiguity. In fact, I am of the view that administrative authorities have to inter se deal with the matter and accord benefit of pension to the petitioner once HUDA had, in no uncertain terms, stated that as and when the petitioner retires from the service, his case would be considered for grant of sanction after completion of all the formalities as per the applicable Rules. More particularly, when another similarly situated employee, namely Sh. Vinod Kumar Kamboj, Executive Engineer of HUDA who too had joined the State Government service was accorded the approval of counting of his past service in HUDA for the purposes of calculating his retirement/ pensionary benefits as is borne out from the administrative order dated 30.06.2009 (Annexure P-13). No doubt in the said administrative orders, it has been stated that case of Sh. Vinod Kumar Kamboj will not be taken as precedent for any other case, one doesn't know from where this caveat arises from. It is not backed with any such statutory provision and/or applicable service Rules which denies an employee the benefit of counting of his past service in HUDA when without any break, he is selected subsequently by the State Government. In fact such a prohibition or treatment meted out to the petitioners vis-à-vis the case of Sh. Vinod Kumar Kamboj is self-contradictory inasmuch as completely dilatory stand has been taken by the Secretary in the affidavit filed.*

11. *Respondents having not done so, the petitioner has been unnecessarily compelled to file instant writ proceedings.*

12. *In the premise, I see no reason as to why the present writ petition be not accepted. Petition is thus, allowed. Accordingly, respondents are directed to grant retirement/ pensionary benefits to the petitioner w.e.f. the date he has retired by doing the necessary calculations and pay the dues along with interest at the rate of 6% per annum w.e.f. the date of entitlement till actual realization. Liability for payment shall be borne proportionately*

by the State Government and HUDA in accordance with the length of service rendered with the respective entities.”

6. The past practice of the respondent-HSVP clearly demonstrates that the benefit of past service rendered in other departments of the State of Haryana has been extended to its employees upon superannuation by counting such service towards ‘qualifying service’ for the purpose of computing pension. The petitioners are identically situated and, therefore, cannot be denied similar treatment. Denial of such benefits to similarly situated employees amounts to discrimination and is violative of Articles 14 and 16 of the Constitution of India.

7. Reliance in this regard may be placed on the judgement rendered by a Two Judge Bench of the Hon’ble Supreme Court in ***Union of India v. Munshi Ram*** 2022 INSC 1141, which while speaking through Justice M.R Shah observed:

*“7. It cannot be disputed that employees working in different divisions/zones in the Railways are under the very same employer - Railway Board which is under the Ministry of Railways. There are 16 Zones and 68 Divisions in the Railways. **Therefore, the employees working under the same employer - Railway Board working in different Zones/Divisions are required to be treated similarly and equally and are entitled to similar benefits and are entitled to the same treatment. As rightly submitted on behalf of the respondents, there cannot be any discrimination inter se. Under the circumstances, on the ground of parity, the Commission Vendors/bearers working in the Northern Railway are entitled to the same benefits which are held to be entitled to all the similarly situated Commission Vendors/Bearers working under different Zones/Divisions. There cannot be different criteria/parameters with respect to similarly situated employees** - Commission Vendors/bearers working in different Zones/Divisions, but working under the same employer.”*

7.1 Further, there is no dispute that the highest decision-making authority in this regard is the Haryana Urban Development Authority (HUDA). In its meeting dated 28.12.2004 (Annexure P-20), the Authority

approved Agenda Item No. A-94 (15) concerning the counting of past service for the purpose of pension. The said decision was duly communicated to all the zonal administrators of HUDA by the Chief Administrator vide letter dated 04.02.2005 (Annexure P-15).

Admittedly, the Chief Administrator, in his individual capacity, does not occupy a position superior to that of the Authority, which is the apex decision-making body. Consequently, a decision taken collectively by the Authority could not have been annulled unilaterally by the Chief Administrator. The decision of the Authority must, therefore, prevail over any contrary view expressed by the Chief Administrator, who is merely one of its constituents.

8. In view of the above, all the three petitions are allowed in terms of decision in **Pritam Chand's** case (supra). The respondents are directed to grant retirement/ pensionary benefits to the petitioners w.e.f. the date they have retired by doing the necessary calculations and paying the dues along with interest at the rate of 6% per annum w.e.f. the date of entitlement till it's actual realization. Liability for payment shall be borne proportionately by the State Government and HUDA/HSVP in accordance with the length of service rendered with the respective entities.

9. Pending application, if any, also stands disposed of accordingly.

10. Photocopy of this order be placed on the connected files.

(HARPREET SINGH BRAR)
JUDGE

27.03.2026
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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No