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

CWP-8009-2024

Soma Devi

.....Petitioner

VERSUS

Punjab State Power Corporation Limited and others

..Respondents

Reserved on: 20.04.2026
Pronounced on: 08.05.2026
Uploaded on:08.05.2026

Whether only the operative part of the judgment is pronounced? *No*
Whether full judgment is pronounced? *Yes*

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Jagjeet Singh, Advocate
for the petitioner.

Mr. Karanbir Singh Kharbanda, Advocate
for the respondents.

<u>HARPREET SINGH BRAR, J.</u>

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *Certiorari* for quashing the impugned orders dated 25.10.2016 (Annexure P-3) and 11.09.2017 (Annexure P-5) passed by the respondent-authorities whereby the claim for retiral benefits and monthly pension of the deceased husband

of the petitioner was rejected. Further, for issuance of a writ in the nature of *Mandamus* directing the respondents to release his retiral benefits and monthly pension, by counting 17 years and 04 months of work charge service rendered by him, along with interest at the rate of 12% p.a. Further, to direct the respondents to consider his claim towards the Old Pension Scheme.

FACTUAL BACKGROUND

2. The husband of the petitioner, namely Puran Singh, was appointed with the respondent-Department on work charge basis on 22.05.1987. He worked in this capacity till 29.09.2004 and was ultimately regularised as Assistant Lineman on 30.09.2004. Thereafter, Puran Singh sought premature retirement by giving a 03 month notice to the respondent-Department. The request of the husband of the petitioner was accepted and was voluntarily retired on 09.10.2010, as discernible from order dated 10.09.2010 (Annexure P-1).

3. Subsequent to his retirement, Puran Singh moved an application for release of retiral benefits and monthly pension. In furtherance thereof, letter dated 15.03.2012 (Annexure P-2) was issued to him regarding deposition of Rs.1,82,796/- in the account of the Department towards EPF. The husband of the petitioner passed away on 29.07.2015, during the pendency of this case before the respondent-Department. Thereafter, the petitioner moved a representation to the respondent-Department to consider his case; and she was informed vide impugned order dated 25.10.2016

(Annexure P-3) that her husband was not eligible for pension as he lacks the qualifying service of 10 years. It was further stated that since he was regularised after 01.01.2004, he is covered by the New Contributory Pension Scheme (NPS) and thus, his case cannot be considered for gratuity either. Vide impugned order dated 11.09.2017 (Annexure P-5), the petitioner was informed that the claim for retiral benefits has been rejected as her husband only rendered 6 years and 10 month of regular service. Aggrieved by the same, the petitioner has moved the present writ petition.

CONTENTIONS

4. Learned counsel for the petitioner contended that Puran Singh, husband of the petitioner was denied retiral benefits by alleging that he does not meet the requirement of 10 years of qualifying service. The husband of the petitioner was initially engaged on 22.05.1987, albeit on work charge basis and subsequently regularised on 30.09.2004. He voluntarily retired prematurely on 09.10.2010, causing the respondent-Department to wrongly infer that the husband of the petitioner had only rendered 06 years and 10 months of service. In doing so the respondent-Department has illegally ignored the 17 years and 04 months of service rendered by the husband of the petitioner on work charge basis, which is contrary to the judgment rendered by the Full Bench of this Court in ***Kesar Chand vs. State of Punjab and others AIR 1988 P&H 265,*** the Division Bench in ***Harbans Lal vs. State of Punjab 2012(2) SCT 362*** as well as respective Co-ordinate Benches in ***Om Prakash vs. Punjab State Power Corporation Limited***

2017(4) SCT 43, Sukhdev Singh vs. Punjab State Power Corporation Limited and another in ***CWP No.13132 of 2020*** and ***Surjit Singh vs. State of Punjab and others*** in ***CWP No.16147 of 2023.*** Not only did the husband of the petitioner served the respondent-Department for a total of 23 years 4 months 17 days, he had also duly deposited the amount of Rs.1,87,796/-, as demanded, towards EPF; and yet his claim for retiral benefits was denied. As such, the respondent-Department ought to consider the services of the husband of the petitioner in its entirety in view of Rule 3.17 of the Punjab Civil Services Rules and grant him the consequential benefits, payable to his wife i.e. the petitioner, including consideration under the Old Pension Scheme.

5. *Per contra*, learned counsel for respondent-Department argued that in order to avail pensionary benefits, the employee ought to have 10 years of regular service while the husband of the petitioner only has 6 years 10 months of the same (i.e. from date of his regularisation- 30.09.2004 to the date of his retirement- 09.10.2010). Since the condition of qualifying service is not met, the husband of the petitioner cannot be allowed to avail benefits of the work charge service rendered by him. He also placed reliance on the judgment of the Hon'ble Supreme Court in ***Uday Pratap Thakur and another vs. State of Bihar and others 2023 SCC OnLine SC 527*** to buttress his case. Furthermore, the petitioner was regularized after 01.01.2004 and as such, he is governed by the NPS. However, the said Scheme requires the employee to deposit 10% P.D.A., which was

not done by the husband of the petitioner. Learned counsel further contended that the husband of the petitioner retired in the year 2010 but the present petition was filed after a lapse of about 14 years. Thus, the present writ petition also deserves to be dismissed on the ground of delay and laches.

OBSERVATIONS AND ANALYSIS

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that husband of the petitioner, since deceased, was denied pensionary benefits by the respondent-Department vide impugned orders (Annexure P-3 and P-5), citing his failure to fulfil the qualifying service of 10 years. Admittedly, the deceased employee was appointed on work charge basis on 22.05.1987, regularised on 30.09.2004 and, retired from service on 09.10.2010. The point of contention between the parties appears to be whether or not the service rendered by the deceased employee ought to be counted towards qualifying service for pensionary benefits, once he had been regularised.

7. Upon retirement, the deceased employee had moved an application seeking release of retiral benefits, in response to which, vide order dated 15.03.2012 (Annexure P-2), the respondent-Department requested him to deposit the due amount towards EPF. Admittedly, he made the requisite deposit, post which, his case remained pending with the respondent-Department for final decision. It was only when the petitioner filed a representation that vide letter dated 14.09.2016, the Superintendent

Pension Mobile-1 requested respondent No.2-Chief Accountant for further information in this regard. Ultimately, the claim for retiral benefits of the deceased employee was rejected vide impugned orders dated 25.10.2016 (Annexure P-3) and 11.09.2017 (Annexure P-5). In acknowledgement of the efforts made by the deceased employee as well as the petitioner, being a rustic woman, nearly 60 years of age, this Court is of the considered opinion that the responsibility of the delay lies with the respondent-Department.

8. Further, it is trite law that where an employee has been continuously working, on temporary basis, for a significant duration of time, such service cannot be ignored while computing pensionary benefits, if it is not a contingency-based. While striking down sub-rule (ii) of Rule 3.17 of the Punjab Civil Services Rules, a Full Bench of this Court in ***Kesar Chand (supra)*** has held that when a certain duration of service is counted towards regularisation, the same must also be counted towards computation of pensionary benefits. Speaking through Justice G.R. Majithia, the following was held:

> *"19. In the light of the above, let us examine the validity of rule 3.17 (ii) of the Punjab Civil Services Rules Vol. II. This rule says that the period of service in a work-charged establishment shall not be taken into account in calculating the qualifying service.* ***After the services of a work-charged employee have been regularised he becomes a public servant. The service is under the Government and is paid by it.*** *This is what was precisely stated in the Industrial Award dated June 1, 1972, between the Workmen and the Chief Engineer, P.W.D.*

(B.& R.), Establishment Branch, Punjab, Patiala, which was published in the Government Gazette dated July 14, 1972. Even otherwise, the matter was settled by the Punjab Government Memo No. 14095-BRI (3)-72/5383 dated 6th February, 1973 (Annexure P7) where it was stated that all those work-charged employees who had put in ten years of service or more as on 15th August, 1972, their service would be deemed to have been regularised. ***Once the service of a work charged employee have been regularised, 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 strike at arbitrariness because a provision which is arbitrary involves the negation of equality. Even the temporary or officiating service under the State Government had to be reckoned for determining the qualifying service.*** *It looks to be illogical that the period of service spent by an employee in a work charged establishment before his regularisation has not been taken into consideration for determining his qualifying service. The classification which is sought to be made among Government servants who are eligible for pension and those who started as work-charged employees and their services regularised 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 regularised, 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."

(emphasis added)

8.1 Thus, the contention that the past service of the husband of the petitioner, i.e. the services rendered by him prior to regularisation, cannot be counted towards qualifying service for grant of pensionary benefits is liable to be rejected.

9. Moreover, a Division Bench of this Court in ***Harbans Lal (supra)*** has emphatically held that if an employee was appointed prior to the introduction of the new scheme but was regularised subsequent to the same, he would still be governed by the old scheme. The following was opined:

> *"12 We come to the conclusion that* ***the petitioners' initial date of appointment after regularisation will be the date on which employee takes charge of the post. Once the entire service of a daily wager is to be counted as qualifying service then his date of appointment will relegate back to his initial date of appointment Le. 1988 and he cannot be ousted from pension scheme by applying the date of regularisation i.e. 28.3.2005 which is evidently after the new scheme or new restructured defined Contribution Pension Scheme came into force w.e.f. 1.1.2004.***
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> *xxx xxx xxx*
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> *15. This view has been followed by a Division Bench of this Court in case of Hans Raj v. State of Punjab and others, 2005(3) RSJ 262. In this case the Division Bench examined the*

Punjab Municipal Employees Pension and General Provident Fund Rules, 1994. Vide instructions dated 8.1.1999, the State of Punjab had provided that since the Pension Rules has been made applicable in lieu of CPF, the period to be considered as qualifying for pension has to be restricted to the period for which the employee was contributing to his CPF. These instructions were held contrary to the Pension Rules by the Division Bench. The Division Bench held that the said instructions cannot substitute or supplant the substantive provisions of the Pension Rules. The petitioner was held entitled to count his entire service from 1962 to 1998 as qualifying service for the purpose of pension. ***The condition that qualifying service would commence from the date of contribution to the CPF, has been rejected by the Division Bench.***

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 regularisation is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt, service prior to 1.1.2004****. 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 1.1.2004."*

(emphasis added)

10. Pertinently, the reliance placed on the judgment rendered by a two Judge Bench of the Hon'ble Supreme Court in Uday Pratap Thakur (supra), is misplaced in view of the observations made therein. The relevant extract is reproduced below:

> *"6.3 Now, insofar as the reliance placed upon the decision of this Court in the case of Prem Singh (supra) by the learned counsel appearing on behalf of the appellants is concerned, the reliance placed upon the said decision is absolutely misplaced. In the said case, this Court was considering the validity of Rule 3(8) of the U.P. Retirement Benefit Rules, 1961, under which the entire service rendered as work charged was not to be counted for qualifying service for pension. To that, this Court has observed and held that* ***after rendering service as work charged for number of years in the Government establishment/department, denying them the pension on the ground that they have not completed the qualifying service for pension would be unjust, arbitrary and illegal. Therefore, this Court has observed and held that their services rendered as work charged shall be considered / counted for qualifying service.*** *This Court has not observed and held that the entire service rendered as work charged shall be considered / counted for the quantum of pension / pension. The decision of this Court in the case of Prem Singh (supra), therefore, would be restricted to the counting of service rendered as work charged for qualifying service for pension."*
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> (emphasis added)

11. Accordingly, the present writ petition is allowed and the impugned orders dated 25.10.2016 (Annexure P-3) and 11.09.2017

(Annexure P-5) are hereby set aside and quashed. The respondents are directed to treat 25.05.1987 as the date of appointment of the husband of the petitioner, for the purpose of calculating qualifying service towards pension and other retiral benefits, as applicable to employees recruited prior to 01.01.2004. The appropriate authorities are directed to pass an appropriate order reflecting the same within 02 months of receipt of a certified copy of this order.

12. Further, the respondents/competent authorities are directed to release the pension and other retiral benefits accrued to Puran Singh, husband of the petitioner, along with interest at the rate of 6% p.a. on the same, to the petitioner, in view of the decision of a Full Bench of this Court in ***A.S. Randhawa vs. State of Punjab and others 1997 (3) SCT 468***. The interest shall be calculated from the date of filling of the present petition till actual realisation. The needful shall be done within a period of 03 months of receiving a certified copy of this order.

13. In case any amount has been disbursed to the petitioner in lieu of the retiral benefits accrued to her husband, as per the new scheme, the same be deposited with the respondent-Department. The respondents are directed to issue an appropriate notice to the petitioner, if necessary, highlighting the exact amount and, providing a reasonable period to deposit the same.

14. Pending miscellaneous application(s), if any, shall stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

08.05.2026
Puneet Chawla

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