

CWP-12551-2025  
CWP-7050-2026

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105+114

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

**Date of decision: 10.03.2026**

**1. CM-3296-CWP-2026 in/and  
CWP-12551-2025 (O&M)**

**Gayapati**

**... Petitioner**

**Vs.**

**Punjab State Power Corporation Ltd. and others**

**... Respondents**

**2. CWP-7050-2026 (O&M)**

**Nirmala Devi**

**... Petitioner**

**Vs.**

**Punjab State Power Corporation Ltd. and others**

**... Respondents**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Virinder K. Shukla, Advocate and  
Mr. Ashish Gupta, Advocate  
for the petitioner(s).

Mr. Arpan Sabharwal, Advocate  
for the respondents (in CWP-12551-2025).

Mr. Ankit Gaur, Advocate  
for the respondents (in CWP-7050-2026)  
(*through video conferencing*).



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**HARPREET SINGH BRAR, J. (ORAL)**

**CM-3296-CWP-2026 in CWP-12551-2025**

1. This application has been filed under Section 151 of the Code of Civil Procedure, 1908 seeking preponement of date of hearing from 17.08.2026 to some earlier date.

2. In view of the averments made in the application, same is allowed and date of hearing is preponed from 17.08.2026 to today. The main petition is taken on board for final disposal today itself.

**CWP-12551-2025**  
**CWP-7050-2026**

3. This common judgment shall dispose of both these writ petitions, as they arise from a similar factual matrix and pose a common question of law. However, for the sake of brevity, the facts are taken from ***CWP-7050-2026***.

4. Present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari/mandamus* directing the respondents to consider the case of the petitioner(s) under Old Pension Scheme (for short 'OPS') instead of New Defined Contributory Pension Scheme (for short 'NDCPS') and count the services rendered by her as part-time Sweeper w.e.f. 01.12.1978 to 27.03.2024 as qualifying service for pensionary benefits and also to quash Clause No.6 of the regularization order dated 28.03.2024 (Annexure P-4). It is



prayed to direct the respondents for releasing the consequential benefits along with interest @12% *per annum*.

5. Learned counsel for the petitioner in CWP-7050-2026, *inter alia*, contends that the petitioner initially joined the respondent-Corporation as part-time Sweeper on 01.12.1978 and her services were regularized vide order dated 28.03.2024 (Annexure P-4). On attaining the age of superannuation, the petitioner retired from service on 31.12.2025. However, the respondents denied the benefits of OPS to the petitioner on the ground that her services were regularized, when NDCPS was in operation.

6. Learned counsel for the petitioner in CWP-12551-2025, *inter alia*, contends that husband of the petitioner entered the services of the respondent-Corporation as part-time Mali on 01.12.1991 and his services were regularized vide order dated 13.03.2025 (Annexure P-5) w.e.f. 10.04.2006, but unfortunately, he died on 30.04.2024 in harness, who was due to retire on 30.09.2028. It is further contended that family pension to the petitioner has been denied on the ground of non-covering of case of her husband under OPS.

7. Learned counsel relies upon a judgment passed by the Division Bench of this Court in ***Harbans Lal Vs. The State of Punjab and others, 2010 SCC OnLine P&H 8181***, upheld by the Hon'ble Apex Court, wherein it has been authoritatively held that daily wage, part-time or service rendered by an employee on contract basis must be counted towards qualifying service for



calculating the pension and pensionary benefits, as the employee was deemed to be in service prior to coming into force NDCPS, which was implemented w.e.f. 01.01.2004 and submits that the petitioner was initially appointed in the year 1978. He further places reliance on the judgment dated 22.12.2025 passed by this Court in a bunch of petitions, lead case of which is **CWP-12826-2017** titled as **Rajesh Kumar and others Vs. State of Punjab and others** (Annexure P-5) and another judgment of this Court passed in **CWP-1672-2026** titled as **Bimla Devi Vs. Punjab State Power Corporation Ltd. and others**, decided on 23.01.2026 (Annexure P-6).

8. *Per contra*, learned counsel for the respondents in CWP-12551-2025 opposes the prayer made by the petitioner on the ground that services of the petitioner were regularized only on 28.03.2024, as discernible from the regularization order (Annexure P-4) and as such, her case cannot be considered under OPS.

9. Mr. Ankit Gaur, Advocate, who is appearing, through video conferencing on advance notice, on behalf of the respondents in CWP-7050-2026, reiterates the stand taken by the respondents in CWP-12551-2025.

10. However, learned counsel for the respondents in both the petitions could not controvert the fact that judgment in **Harbans Lal's** case (*supra*) was affirmed by the Hon'ble Apex Court and also could not distinguish the judgment rendered by the Full Bench of this Court in **Kesar Chand Vs. State of Punjab, 1988 (2) PLR 223**, wherein while interpreting



Rule 3.17 of the Punjab Civil Services Rules, benefit of counting of past service preceding regularization towards qualifying service for pension was granted.

11. Having heard learned counsel for the parties and after perusal of record of the case with their able assistance, it transpires that the petitioner in CWP-7050-2026 and husband of the petitioner in CWP-12551-2025 were serving the respondent-Corporation since the years 1978 & 1991 respectively prior to cut off date i.e. 01.01.2004, when the New Pension Scheme was came into effect. There is no denial to the fact that services of the petitioner in CWP-7050-2026 and husband of the petitioner in CWP-12551-2025 were regularized in the year 2024 on the basis of their satisfactory and continuous service. However, the benefit was denied on the ground that case of the petitioner in CWP-7050-2026 and husband of the petitioner in CWP-12551-2025 would be covered under NDCPS.

12. The controversy involved in both these petitions has been duly considered by this Court in **Rajesh Kumar**'s case (*supra*) and **Bimla Devi**'s case (*supra*). As such, the issue is no longer *res integra*. The service rendered by the petitioner in CWP-7050-2026 and husband of the petitioner in CWP-12551-2025 as part-time followed by regularization is liable to be counted towards qualifying service for the purpose of pension and pensionary/family pension. Thus, action of the respondents in denying the benefits under Old Pension Scheme is unsustainable in the eyes of law. This Court in **Bimla**



**Devi**'s case (*supra*) made the following observations: -

*“5. Reliance in this regard can also be placed on the judgment rendered by this Court in Zile Singh vs. State of Haryana in CWP-626-2015 decided on 17.03.2015 wherein duration of services rendered by a sweeper on part time, before regularisation, was ordered to be counted towards pensionary benefits. The same was also upheld by a Division Bench of this Court in LPA-426-2016 titled as State of Haryana and others vs. Zile Singh decided on 18.03.2016. The relevant part is reproduced below:*

*“This appeal is directed against the judgment of the learned Single Judge dated 17.3.2015 holding the respondent – employee entitled to the benefit of previous service rendered by him on work charge basis towards qualifying service as pension in terms of the Full Bench titled as Kesar Chand vs. State of Punjab and others AIR 1988, P&H 265.*

*Learned counsel for the appellant while impugning the said judgment refers to Rule 3.17 A to contend that the respondent-employee was engaged on part time basis and would thus not be entitled to have this service counted for qualifying service. Rule 3.17 A is extracted hereinbelow:-*

*3.17-A (1) Subject to the provisions of rule 4.23 and other rules and except in the cases mentioned below, all service rendered on establishment, interrupted or continuous, shall count as qualifying service:-*

*(i) Service rendered in work charged establishment.*

*(ii) Service paid from contingencies: Provided that after the 1st January, 1973 half of the service paid from contingencies will be allowed to count towards*

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*pension at the time of absorption in regular employment subject to the following conditions:-*

*(a) Service paid from contingencies should have been in a job involving whole-time employment (and not part time or for a portion of the day)*

*(b) Service paid from contingencies should have been in a type of work or job for which regular post could have been sanctioned e.g malis, chowkidars, khalasis etc.*

*(c) the service should have been one 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 relation in the matter of pay to those being paid for similar jobs being performed by staff in regular establishment.*

*(d) the service paid from contingencies should have been continuous and followed by absorption in regular employment without a break.”*

*Apparently service rendered in work charge establishment is included but excluded if it is part time or for a portion of the day as is suggested by Rule 3.17 A(ii)(a).*

*We find that the employee was engaged on work charge basis in the year 1996 and his services were regularized on 24.5.2013 in terms of the regularization policy applied to him. There is nothing on record to suggest that employee's services were being paid from contingencies as this issue was never pleaded or raised before the writ Court. It is only for the first time that such a plea is raised before this Court in LPA which we shall not permit. There is also nothing on record which would*



*even remotely suggest that the service of the employee was engaged only for contingencies and if the long term of employment is to be seen it clearly defies such a stand of the respondents. If a person can be engaged from 1996 till 2013 it could hardly be visualized to be a contingency as the need evidently was permanent.”*

13. Further, the Division Bench of this Court in ***Harbans Lal***'s case (*supra*) held that an employee, who is serving the department on daily wage basis, followed by regular service, cannot be treated as new entrant upon regularization. Reliance is also placed on a judgment of this Court in ***State of Haryana and others Vs. Jai Bhagwan, 2024 NCPHHC 095763***, wherein the part-time employees subsequent to their regularization were granted the benefit of counting of past service as qualifying service for the purpose of pension and pensionary benefits.

14. The regularization of services of the petitioner in CWP-7050-2026 and husband of the petitioner in CWP-12551-2025, in the year 2024 does not alter their status as the employees appointed prior to cut-off date i.e. 01.01.2004. As such, the petitioners are entitled to the relief claimed in the present petitions.

15. In the wake of aforesaid discussion, both these petitions are disposed of and the respondents are directed to count the past/entire service rendered by the petitioner in CWP-7050-2026 and husband of the petitioner in CWP-12551-2025 from the date of their initial appointment i.e. 01.12.1978



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and 01.12.1991 respectively, till the date of regularization in the year 2024 towards qualifying service for pension and pensionary benefits and to treat them as covered under the OPS, as applicable to the employees recruited prior to 01.01.2004 as well as to calculate and release all the consequential pensionary benefits/family pension including arrears. Needful be done within a period of three months from the date of receipt of certified copy of this order.

16. It is clarified that if the petitioner(s) have received any amount under NDCPS, the same shall be returned by them within a period of two months from today.

17. The pending miscellaneous application(s), if any, shall stand disposed of.

18. Photocopy of this order be placed on the file of connected case.

[ HARPREET SINGH BRAR ]  
JUDGE

10.03.2026  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No