2026:PHHC:068418

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

147

CWP-13744-2026 (O&M)
Date of decision: 04.05.2026

Harbhajan Singh

....Petitioner

Versus

The Punjab State Power Corporation Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Rimple Saini, Advocate
for the petitioner.

Mr. Harshit Jain, Advocate
for the respondents.

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 22.08.2025 (Annexure P-1), passed by respondent No.3 whereby the claim of the petitioner for counting his service rendered on daily wage basis towards qualifying service for pensionary benefits, has been rejected. Further a writ of *mandamus* has been sought, directing the respondents to count the said period as qualifying service and grant consequential pensionary benefits along with arrears and interest @ 18% per annum.

2. Learned counsel for the petitioner has*, inter alia*, contended that the petitioner was initially engaged as a daily wager on 21.06.1991 and his services were subsequently regularized w.e.f. 01.04.1999.

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

Thereafter, he continued in service and retired on 29.02.2020 as Assistant Lineman. It is contended that despite rendering long and continuous service, the respondents have illegally denied counting of the daily wage service for the purpose of pension. It is further submitted that the petitioner had earlier been terminated from service and was reinstated pursuant to an award passed by the learned Labour Court with continuity of service and full back wages, which has attained finality. Thus, the entire service rendered by the petitioner is liable to be treated as continuous for the purpose of pensionary benefits.

3. Learned counsel for the petitioner has further contended that the issue involved in the present petition is no longer *res integra* in view of settled law laid down by this Court in **CWP-17820-2005**, titled as ***Malkiat Singh, Ex-Security Guard vs. The Presiding Officer, Industrial Tribunal, Punjab and others***, decided on **17.04.2012** wherein it has been held that service rendered by an employee on daily wage/work-charged basis is liable to be counted towards qualifying service for pension. The said view has further been affirmed by the Hon'ble Supreme Court in **SLP(C) CC-12916 of 2013**, titled as ***Punjab State Electricity Board, Patiala vs Malkiat Singh*** decided on **13.02.2024**.

4. Learned counsel for the petitioner, in support of his arguments, has argued that the Notification dated 23.02.2012 issued by the Government of Punjab and Rule 3.17A of Punjab Civil Services Rules, provide for counting daily wages/work-charge service rendered

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

by an employee as qualifying service. He has further relied upon 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***. He has also relied upon the judgment passed by this Court in ***Jeewan Lata vs State of Punjab and others, 2019(4) SCT 271*****,** and submits that continuous part-time service followed by regularization shall be counted as qualifying service for the purpose of pension and therefore, the action of the respondents is contrary to the settled law.

5. Mr. Harshit Jain, Advocate has put in appearance on behalf of the respondents and file his Memo of Appearance, which is taken on record. The Registry is directed to tag the same at appropriate place.

6. *Per contra,* learned counsel for the respondents has argued that the petitioner has not challenged the Instructions vide which the benefit of counting the past service rendered by an employee on daily-wage/work-charge has been withdrawn, however, he could not controvert the fact that the part-time service rendered by the petitioner is required to be considered in terms of the aforementioned judgments.

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

8. 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 regularization is to be counted as qualifying service for pension and

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

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."*

9. Further 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

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

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."*

10. 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.

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

11. Rule 3.17 (A) of the Punjab Civil Services Rules Volume II, reads as follows:-

> *"3.17-A(1) Subject to the provision 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 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 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 perform 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.*
>
> *(iii) Casual or daily rated service.*
>
> *(iv) Suspension adjusting as a specific penalty.*

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

> *Keeping in view the submissions made above, the part time service cannot be counted towards pensionary benefits, it is respectfully submitted that the present writ petition may kindly be dismissed being infructuous.*

12. The aforesaid Rule 3.17 (A) of the Punjab Civil Services Rules, has already been interpreted by this Court while deciding **CWP-626-2015** titled as ***Zile Singh vs State of Haryana and others***, decided on **17.03.2015**, wherein also a similar question of law arose. In the said case also, the employees working on part-time basis were seeking the benefit of the part-time service to be treated as a qualifying service for the grant of pensionary benefits. After relying upon the ratio of law laid down in ***Kesar Chand's case (supra)***, this Court while deciding ***Zile Singh's case (supra)***, has held that once an employee has worked with the respondents though on part time basis and the said part time service has been taken into account for regularisation of service of an employee, the benefit of said service, cannot be denied to be counted as a qualifying service for the purpose of grant of pensionary benefits. The relevant portion of the judgment is as under:-

> *By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks directions to the respondents to count the past service of the petitioner from 27.03.1996 to 24.05.2013 towards qualifying service for pension and other retiral benefits and to release the arrears thereof along with interest @ 18% per annum.*
>
> *It is contended that the petitioner was appointed as part time sweeper on daily wage basis on 27.03.1996 and*

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

he worked continuously till 25.03.2000. The services of the petitioner were temporarily dispensed with on 26.03.2000. The learned counsel refers to Annexure P-1 and states that even, thereafter, the petitioner worked without any break on the same post with respondent No.4.

On the basis of Govt. Policy, the services of the petitioner were regularized against the regular post of sweeper, vide office order dated 24.05.2013 Annexure P-2). The petitioner retired on 31.05.2014, however, the service benefits have not been released to him.

On the other hand, the learned State counsel submits that the services of the petitioner were regularized on 24.05.2013 and he remained on regular post for 01 years and 07 days, therefore, he does not fulfill the condition and guidelines to get the retiral benefits as per Pension Rules.

13. Furthermore, the admitted factual position is that the petitioner had initially joined the service of the respondent/Corporation as a daily wager on 21.06.1991 and continued to serve till his regularization on 01.04.1999, and thereafter till his retirement on 29.02.2020. It is also not in dispute that the petitioner had earlier been granted continuity of service by the learned Labour Court, which attained finality. The issue involved in the present petition is squarely covered by the aforesaid judgments, including the judgment rendered by this Court in ***Malkiat Singh's case (supra)***, wherein it has been categorically held that the service rendered by an employee as a daily wager/work-charge, prior to regularization, cannot be excluded for the purpose of pensionary benefits. The said view stands duly affirmed by the Hon'ble Supreme Court in **SLP(C) CC-12916 of 2013**.

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.

14. Accordingly, in view of the aforesaid authoritative pronouncements of this Court in ***Jeewan Lata's case (supra), Zile Singh's case (supra)*** and the Full Bench of this Court in ***Kesar Chand's case (supra)***, as well as the Division Bench judgment of this Court in ***Harbans Lal's case (supra)***, the present petition is allowed and the impugned order dated 22.08.2025 (Annexure P-1) is hereby set-aside. The respondents are directed to count the petitioner's daily wage service from 21.06.1991 till the date of his regularization as qualifying service for the purpose of pensionary benefits and decide his claim within a period of three months from the date of receipt of certified copy of this judgment and re-fix his pension accordingly. If the petitioner is found eligible for any arrears, the payment thereof shall also be made to him within a period of three months from the date of determination of such arrears, however, the said arrears shall not carry any interest.

15. Pending application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

04.05.2026
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

MOHD YAKUB
2026.05.06 09:45
I attest to the accuracy and authenticity of this document
Punjab & Haryana High Court, Chandigarh.