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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-36390-2025 (O&M)
Date of decision: 24.02.2026

Rajan Preet Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. A.K. Premi, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

Mr. Ankit Gaur, Advocate
for respondents No.2 to 4-PSPCL.

HARPREET SINGH BRAR, J.

1. Present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of the order dated 30.09.2025 (Annexure P-13) passed by respondent No.3, whereby claim of the petitioner for counting previous services rendered by him in Punjab Cooperative Cotton Marketing & Spinning Mills Federation Limited (for short 'SPINFED') towards pensionary benefits was rejected and further to issue a writ in the nature of *mandamus* directing the respondents to

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count his previous service and include him under the Old Pension Scheme (for short 'OPS') in the light of Punjab Civil Services (Amendment) Rules, 2025, notified on 22.05.2025 and adopted by respondent No.2-Punjab State Power Corporation Limited (for short 'PSPCL') on 19.09.2025.

CONTENTIONS

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was initially appointed as Junior Engineer (Electrical) in SPINFED on 19.04.1991, which was an erstwhile Public Sector Enterprise of the State of Punjab (Annexure P-1). In the year 2003, the State of Punjab decided to liquidate SPINFED and all common cadre employees were offered retirement under the Voluntary Retirement Scheme, 2002 (for short 'VRS'). While the petitioner initially applied for VRS on 08.08.2003, he subsequently requested that his case be deferred and sought absorption in the Punjab State Electricity Board (for short 'PSEB') (now PSPCL).

3. It is submitted that the Liquidator, SPINFED, forwarded the petitioner's application for absorption in the PSEB on 20.10.2003 (Annexure P-2) and the Registrar, Cooperative Societies, Punjab also recommended his case on 13.01.2004 (Annexure P-3). Consequent upon the Board's decision, the petitioner was absorbed as Junior Engineer (Electrical) in PSEB and issued an appointment letter on 17.11.2004 (Annexure P-5), pursuant to which, he joined service on 19.11.2004. The petitioner eventually retired from the post of Assistant Engineer on 31.07.2025. It is emphasized that there was no break in

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the petitioner's service, as the period from 01.08.2004 to 19.11.2004 was regularized by the Liquidator, SPINFED, vide order dated 02.12.2004 (Annexure P-6).

4. Learned counsel argues that at the time of joining the PSEB, New Contributory Pension Scheme (NPS) was made applicable to the petitioner, despite the fact that he was appointed in SPINFED in the year 1991. Furthermore, the services rendered by the petitioner in SPINFED have not been counted towards his qualifying service for pensionary benefits. In this regard, the petitioner served a legal notice dated 02.06.2025 (Annexure P-9) and subsequently filed CWP-19743-2025, which was disposed of by this Court vide order dated 16.07.2025 (Annexure P-12) directing the respondents to decide the legal notice within a period of two months. In purported compliance, respondent No.3 passed the impugned order dated 30.09.2025 (Annexure P-13) illegally and arbitrarily rejecting the claim of the petitioner.

5. Learned counsel places reliance on the judgments of this Court in **CWP-10821-2000** titled as ***R.P. Singla Vs. State of Punjab and others*** and **CWP-6680-2005** titled as ***S.C. Kapuria Vs. Punjab State Electricity Board and others***, wherein the previous service rendered with the Government of Punjab was ordered to be counted along with the service rendered in PSEB for the purpose of retiral benefits. Reliance is also placed upon the judgments rendered by this Court in **CWP-10008-2006** titled as ***Ram Singh and another Vs. State of Punjab and others*** and **CWP-12010-2011** titled as ***Didar Singh***

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***Vs. State of Punjab.***

6. Learned counsel further submits that the petitioner's case is covered by the Punjab Civil Services (Amendment) Rules, Volume-I, Part-I, 2025, notified on 22.05.2025 (Annexure P-7) (for short 'PCS Rules, 2025'), which has been adopted by PSPCL vide letter dated 19.09.2025 (Annexure P-9). It provides that the OPS shall apply to the government employees, whose cases for appointment were forwarded prior to 01.01.2004, even if the appointment was made after that date. Since the petitioner's case for absorption was forwarded on 20.10.2003, he is entitled to be covered under the OPS. For ready reference, relevant portion of PCS Rules, 2025 is reproduced as under: -

“Provided further that the rules in Part 1- Pensions and Part-II Provident Fund contained in Volume-II of these rules called the Punjab Civil Services Rules, Volume-II, shall also apply Government employees who are appointed to the posts mentioned in categories (1) to (5) above on or after the 1st January, 2004, but whose posts or vacancies were advertised for recruitment before 1st January, 2004.

Provided further that the rules in Part 1- Pensions and Part II-Provident Fund contained in volume-II of these rules called the Punjab Civil Service Rules, Volume-II, shall also apply to the Government employees who have been appointed on compassionate grounds on or after 1st January, 2004 but where the request by the legal heir for appointment was received before 1st January, 2004 and the concerned legal heir had fulfilled the eligibility criteria i.e. age; education qualification; or any other requirement required for that post before 1st January, 2004.”

7. *Per contra*, learned counsel for respondents No.2 to 4-PSPCL, *inter alia*, submits that the petitioner was not appointed against any published

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advertisement/CRA, but he was absorbed in PSEB (now PSPCL) and unconditionally accepted the offer of appointment. It is submitted that the petitioner's appointment in PSEB was a fresh appointment and it was nowhere agreed that his past service rendered in SPINFED will be considered and protected for grant of pensionary benefits.

8. Furthermore, learned counsel emphasized that the SPINFED is a ***non-pensionary establishment*** and therefore, the service rendered by the petitioner cannot be considered as qualifying service for pensionary benefits.

9. With regard to the petitioner's claim for coverage under the OPS, learned counsel submits that the petitioner's case does not fall within the ambit of the PCS Rules, 2025. It is contended that the said Rules apply only to those employees, who were appointed on or after 01.01.2004 against posts or vacancies advertised prior to that date, or to those who were appointed on compassionate grounds on or after 01.01.2004, where the request for such appointment had been received before the said date.

10. It is argued that in the present case, the petitioner's application for absorption in PSEB was forwarded by the Manager (F&A) for the Liquidator (SPINFED) on 20.10.2003, as he had been declared surplus from his previous department. However, as per the official record, the process for his appointment as Junior Engineer commenced only after 01.01.2004, when the matter was placed before the Board of Directors vide Agenda No.5/Zones dated 27.09.2004. In its meeting held on 28.09.2004, the Board of Directors

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approved the absorption of the petitioner to the post of Junior Engineer in PSEB. It is further submitted that the appointment of the petitioner was neither pursuant to any advertisement or recruitment process nor on compassionate grounds. He was also not on deputation from any other department. Moreover, appointment letter issued to the petitioner expressly stipulates that his services would be governed by the NPS. It is thus contended that the petitioner's claim for counting his past service rendered in SPINFED towards pensionary benefits in PSPCL is untenable, as such, service was not covered under the OPS. It is further argued that the judgments relied upon by the petitioner are distinguishable on facts, therefore, the same are not applicable to the present case.

11. In response to the contention of learned counsel for the respondents-PSPCL that SPINFED is a non-pensionary establishment, learned counsel for the petitioner places reliance upon the judgment of the Hon'ble Supreme Court in ***Punjab State Electricity Board Vs. Narata Singh, 2010(2) SCT 732*** as well as the judgment passed by a Coordinate Bench of this Court in **CWP-1430-1995** titled as ***Avtar Singh Vs. State of Punjab***. It is submitted that the principles laid down in the aforesaid decisions are squarely applicable to the facts of the present case and the objection raised by the respondents is liable to be rejected.

OBSERVATION & ANALYSIS

12. Having heard learned counsel for the parties and after perusing the

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record of the case with their able assistance, the following questions arise for adjudication: -

- (i) *Whether the past service rendered by the petitioner in SPINFED is liable to be counted as qualifying service for the purpose of pensionary benefits?*
- (ii) *Whether the petitioner is entitled to be covered under the OPS?*

Counting of past-service in SPINFED

13. In the present case, it is not in dispute that SPINFED is a non-pensionable establishment and consequently, the petitioner's past service was rendered on a non-pensionable post. The question as to whether service rendered in a non-pensionable establishment can be reckoned as qualifying service for the grant of pensionary benefits is no longer *res integra*. A two-Judge Bench of the Hon'ble Supreme Court in *State of U.P. Vs. Narendra Bahadur Singh, 2012(2) SCT 741*, has categorically answered the aforesaid issue in negative, holding that the service rendered on a non-pensionable post cannot be counted for the purposes of pensionary benefits. In this regard, the Hon'ble Supreme Court has observed as follows: -

“8. The issue, therefore, which arises for our consideration in the present appeal is whether the service rendered by the respondent No. 1 on a non-pensionable post may be added to his continuous length of pensionable services for the purpose of calculating pension and gratuity.

9. *It is revealed from the records placed before us that the*

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respondent No.1 was working as Legal Assistant from 1st September, 1970 to 10th September, 1973. He, however, submitted an application which was forwarded under letter dated 12th August, 1973. In the said letter, it was clearly indicated that if the respondent No. 1 was selected to the post for which he has submitted an application in that event he would have to resign from the post of Legal Assistant in the Agricultural Marketing Section and that his lien would not be maintained in the Department. Therefore, clearly, as revealed from the records, the appointment of the respondent No. 1 to the post of Legal Assistant in Krishi Utpadan Mandi Parishad was a fresh appointment in which post he joined on 9th November, 1973 and worked till 1st May, 1975. As soon as the resignation was accepted and he joined the new post for all practical purposes, the respondent No. 1 became an employee of the new employer namely, Krishi Utpadan Mandi Parishad and was guided by their service conditions. There is no dispute with regard to the fact that the post which he was holding in Krishi Utpadan Mandi Parishad was a non-pensionable post. Even thereafter the respondent No. 1 applied for appointment to the post of Munsiff. He appeared in the selection and thereafter joined the post of Munsiff which was again a fresh appointment. There is no documentary evidence placed on record to indicate that at the time of his appointment as Munsiff his past services were protected. That being the position, the respondent No. 1 would not be entitled to the benefit of the past services to be counted for the purpose of his pension. The judgment and order passed by the High Court therefore cannot be affirmed which is set aside and the contention of the respondent No. 1 in the writ petition is held to be

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unsustainable and therefore rejected.”

(emphasis added)

14. Furthermore, a two-Judge Bench of the Hon’ble Apex Court in *Uttar Haryana Bijli Vitran Nigam Ltd. Vs. Surji Devi, 2008(1) SCT 656*, speaking through Justice S.B. Sinha, has held as under: -

“14. The scheme relating to grant of Family Pension was made under a statute. A person would be entitled to the benefit thereof subject to the statutory interdicts. From a bare perusal of the provisions contained in the Punjab Civil Services Rules, Volume 2 vis-a-vis the Family Pension Scheme, it would be evident that the respondent was not entitled to the grant of any family pension. Husband of the respondent was a work-charge employee. His services had never been regularized. It may be unfortunate that he had worked for 11 years. He expired before he could get the benefit of the regularisation scheme but sentiments and sympathy alone cannot be a ground for taking a view different from what is permissible in law. [See Maruti Udyod Ltd. v. Ram Lal and Others, 2005(1) SCT 771 : (2005)2 SCC 638, State of Bihar & Ors. v. Amrendra Kumar Mishra, 2006(4) SCT 497 : 2006(9) SCALE 549, Regional Manager, SBI v. Mahatma Mishra, 2007(1) SCT 67 : 2006(11) SCALE 258, State of Karnataka v. Ameerbi & Ors., 2007(1) SCT 601 : 2006(13) SCALE 319 and State of M.P. and Ors. v. Sanjay Kumar Pathak and Ors., 2007(4) SCT 616 : [2007(12) SCALE 72]

They statutory provisions, as noticed hereinbefore, debar grant of family pension in favour of the family members as the deceased employee if was a work-charge employee and not a

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permanent employee or temporary employee. The period during which an employee worked as a work-charge employee could be taken into consideration only when his services are regularised and he becomes permanent and not otherwise.

Furthermore, there exists a distinction between a pensionable and non-pensionable establishment. Shri Krishan being a member of a non-pensionable establishment, Family Pension was not admissible. It is not a case where an employee had been given an option to opt for one or the other schemes. Once a person had opted for non-pensionable scheme, the question of his being entitled to pension or for that matter his family members becoming entitled to family pension did not and could not arise. The High Court only followed Kanta Devi (supra) without noticing the distinctive features thereof. As it is not necessary, we have not gone into the question as to whether Kanta Devi (supra) was correctly decided. Apart from the fact that the fact therein was different, evidently the questions which have been raised before us were not raised therein. The High Court, therefore, committed a serious error in applying Kanta Devi (supra) to the fact of the present case.”

(emphasis added)

15. Reference must also be made to the judgment of the Madras High Court in ***M. Annai Muthu Vs. State of Tamil Nadu, 2009 SCC OnLine Mad 83***, wherein the following has been observed: -

*“18. The historical background narrated above would show that the erstwhile post of Village Officers (Karnam, Munsif etc.) was in non-pensionable service and was part time. But the newly created post of Village Administrative Officer is in pensionable service and is full time. It has actually been included as one of the categories of posts in the Tamil Nadu Ministerial Service. **The***

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Tamil Nadu Pension Rules which govern the issue of grant of pension, do not provide for clubbing a non-pensionable service and a pensionable service together for the purpose of counting the qualifying service. Rule 3(o) of the Tamil Nadu Pension Rules, defines the expression “qualifying service” as follows:-

“(o) ‘qualifying service’ means permanent or officiating service (including temporary service under emergency provisions) rendered in a post included in a pensionable establishment.”

19. **It is only on account of the difficulty posed by the above definition, coupled with the fact that the abolished post was not in a pensionable establishment that the Government had to pass a series of orders granting some benefits such as special pension etc. All the Government Orders narrated in the previous part of this judgment, were issued in recognition of the statutory provision that the services rendered in a non-pensionable establishment (as Village Officer) prior to abolition cannot be clubbed together with the services rendered in the pensionable establishment in the newly created category. Therefore it is too late in the day to make a claim for clubbing both services together, when thousands of employees have been granted other benefits, in confirmation of the fact that the rules do not provide for clubbing both service together.**

20. **As stated earlier, there is no provision in the Tamil Nadu Pension Rules, for counting the services rendered by the petitioners in an establishment that was not pensionable. On the contrary, the definition of the expression “qualifying service” in the said Rules makes it clear that the services rendered in a post in a pensionable establishment alone is to be taken as qualifying service for the purpose of grant of pension. Therefore a writ of mandamus as prayed for, contrary to statutory rules cannot be granted.**

(emphasis added)

16. Moving forward, at this juncture, this Court is of the considered view that it would be apposite to refer to the relevant provisions of the Punjab

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Civil Services Rules, Volume II, which are reproduced hereunder: -

“3.12. The service of a Government employee does not qualify for pension unless it conforms to the following three conditions:—

First.—The service must be under Government.

Second.—The employment must be substantive and permanent.

Third.—The service must be paid by Government.

These three conditions are fully explained in the following rules.

Note.—The question whether service in a particular office or department qualifies for pension or not is determined by the rules which were in force at the time such service was rendered; orders subsequently issued declaring the service to be non-qualifying, are not applicable with retrospective effect.

xxx

xxx

xxx

3.16. (a) *The service of a Government employee does not qualify unless he is appointed and his duties and pay are regulated by the Government or under conditions determined by the Government.*

(b) *Omitted.*

Note 1.—The following are examples of Government employees excluded from pension by this rule:—

(1) *Employees of a municipality;*

(2) *Employees of grant-in-aid schools and institutions;*

(3) *Subordinates appointed by Treasurers on their own responsibility;*

(4) *Service on an establishment paid from a Contract Establishment Allowance, with the detailed distribution of which the Government does not interfere, whether such contract allowance is a fixed amount or consists of fees.*

(5) *Service on an establishment paid from the House-hold*

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Allowance of the Governor.

Note 2.- If a ...

xxx

xxx

xxx

3.17. If an employee was holding substantively a permanent post on the date of his retirement, his temporary or officiating service under the State Government, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of : –

(i) periods of temporary or officiating service in non-pensionable establishment;

(ii) Omitted.

(iii) Omitted.

Note 1.- In case...

xxx

xxx

xxx

5.3. (1) When a Government employee is transferred from pensionable Government service to a non-pensionable establishment, he cannot be granted any pension or gratuity admissible to him for the qualifying portion of his service until he actually retires from the non-pensionable establishment to which he is transferred.

(2) ...”

(emphasis added)

17. A conjoint reading of the aforesaid provisions clearly indicates that the Punjab Civil Services Rules, Volume II draw a clear distinction between service rendered in pensionable and non-pensionable establishments. Notably, there is no provision, which permits the clubbing of service in a non-pensionable establishment with that in a pensionable establishment for the purpose of grant of pensionary benefits.

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18. As observed above, Rule 3.17 expressly excludes “*periods of temporary or officiating service in a non-pensionable establishment*” from being reckoned as qualifying service. Further, a perusal of Rule 5.3 demonstrates that service in pensionable and non-pensionable establishments is treated differently. The use of the phrase ‘*qualifying portion of his service*’ in Rule 5.3 suggests that only service in a pensionable establishment has to be counted as qualifying service. Accordingly, this Court is of the considered view that service rendered in an excluded or non-pensionable establishment cannot be treated as qualifying service in the absence of any specific statutory provision or scheme conferring such benefit. Learned counsel for the petitioner has not been able to point out any rule, notification or policy, which permits counting of past service rendered in a non-pensionable establishment for the purpose of pensionary benefits.

19. Thus, a harmonious construction of the aforesaid provisions leads this Court to the inescapable conclusion that the petitioner’s past service in SPINFED, being a non-pensionable establishment, cannot be counted for the purposes of pensionary benefits.

20. Moreover, this Court is of the considered opinion that the reliance placed by learned counsel for the petitioner on the judgment of the Hon’ble Supreme Court in *Narata Singh*’s case (*supra*) as well as the judgment of a Coordinate Bench of this Court in *Avtar Singh*’s case (*supra*) is misplaced. In *Narata Singh*’s case (*supra*), the controversy before the Hon’ble Supreme

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Court was whether the ***work-charged service*** rendered by respondent No.1 therein under the State Government could be taken into account for the purpose of determining qualifying service. While referring to the Full Bench judgment of this Court in ***Kesar Chand Vs. State of Punjab and others, 1988 (5) SLR 27***, the Hon'ble Apex Court held that ***work-charged service*** rendered under the Government of Punjab is liable to be counted as qualifying service for grant of pension. It was further observed that the PSEB had erred in rejecting the claim for counting such past service merely on the ground that it was rendered outside the Board and was ***non-pensionable***. However, this Court is of the considered view that the ratio of law laid down by the Hon'ble Supreme Court in the aforesaid case was confined to the issue of counting work-charged service. Significantly, the Court did not lay down any principle to the effect that all categories of service rendered in a non-pensionable establishment or on a non-pensionable post must necessarily be counted for the purpose of pensionary benefits. On the contrary, as noted hereinabove, the Hon'ble Supreme Court in ***Narendra Bahadur Singh's*** case (*supra*) has categorically held that service rendered on a non-pensionable post cannot be counted as qualifying service for grant of pensionary benefits.

21. In ***Avtar Singh's*** case (*supra*), learned counsel for the respondents therein had relied upon Rule 3.17(i) of the Punjab Civil Services Rules, Volume II, to contend that the service rendered in a non-pensionable establishment cannot be counted as qualifying service for grant of pension and

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other retiral benefits. However, a perusal of the said judgment passed by the Coordinate Bench reveals that this contention was not specifically dealt with and the decision was primarily based on the finding that similarly situated persons had been granted the benefit of counting of past service. In these circumstances, this Court is of the view that the judgment in *Avtar Singh's* case (*supra*) does not materially advance the case of the petitioner.

The petitioner's entitlement to be covered under the OPS

22. With regards to the second issue, this Court finds merit in the argument of learned counsel for the respondents that the petitioner's case is not covered by the PCS Rules, 2025. A plain reading of the provisions, as reproduced above, indicates that their benefit is restricted to specific categories: (i) employees appointed on or after 01.01.2004 against posts or vacancies advertised for recruitment before the said date; and (ii) employees appointed on compassionate grounds where the request for appointment was received before 01.01.2004. The petitioner's case does not fall within either category. The petitioner's appointment was result of 'absorption' as a surplus employee following the liquidation of SPINFED and was treated as fresh appointment for all intents and purposes.

23. Furthermore, a perusal of the record reveals that the process for appointment of the petitioner as Junior Engineer only commenced after 01.01.2004, when the matter was placed before the Board of Directors on 27.09.2004. Crucially, the petitioner's appointment letter dated 17.11.2004

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(Annexure P-5) clearly stipulates that his services would be governed by the NPS; a condition, which he accepted unconditionally at the time of joining.

CONCLUSION

24. In view of the foregoing discussion, the petitioner is not entitled to any relief as prayed for and as such, the present petition is dismissed.

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

[HARPREET SINGH BRAR]
JUDGE

24.02.2026

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No