

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-4025 of 2025 (O&M)
Date of Decision:25.03.2025

Darshan Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Ms. Meenu, Advocate,
for the petitioner.

Mr. Rajesh Sehgal, Addl. A.G., Punjab

Mr. Anupam Singla, Advocate,
for respondents No.2 and 3.

DEEPINDER SINGH NALWA, J. (Oral)

1. In the present petition, the petitioner is praying for counting of daily wage service rendered by him with Pepsu Road Transport Corporation (hereinafter referred to as 'the Corporation') with effect from 03.05.1984 to 06.08.2000 for the purpose of pensionary benefits.

2. The brief facts of the case are that the petitioner was appointed as a cleaner on daily wage basis on 02.07.1984 and thereafter on 11.06.1985 the services of the petitioner was terminated. Aggrieved against the aforesaid order of termination, the petitioner approached the learned Labour Court, Patiala and vide Award dated 27.05.1992, the learned Labour Court, Patiala decided the reference against the petitioner. The aforesaid Award dated

27.05.1992 passed by the learned Labour Court, Patiala was challenged by the petitioner by way of filing CWP No.308 of 1993. The said writ petition was allowed on 06.07.1994 by this Court and the Award passed by the learned Labour Court, Patiala was set aside and the petitioner was held entitled to be reinstated with continuity of service alongwith backwages. In pursuance to the aforesaid order dated 06.07.1994 passed by this Court, the petitioner was reinstated in service on the post of cleaner as a daily wager. The petitioner was appointed afresh on the post of Conductor on regular basis in the respondent Corporation on 18.08.2000 and was posted at Bathinda Depot. On attaining the age of superannuation, the petitioner retired from the post of Inspector on 31.05.2023 and all the retiral benefits have been released to the petitioner after his retirement.

3. The present writ petition has been filed by the petitioner praying that the service rendered by him as a daily wager on the post of cleaner from 03.05.1984 to 06.08.2000 should be taken into consideration for the purpose of calculating retiral benefits.

4. Learned counsel for the petitioner submits that the service rendered by the petitioner as a daily wager on the post of cleaner be taken into consideration for the purpose of calculating retiral benefits. Reliance has been made to Rule 3.17 of the Punjab Civil Services Rules Volume II.

5. Mr. Rajesh Sehgal, Addl. A.G., Punjab on behalf of respondent No.1-State and Mr. Anupam Singla, Advocate on behalf of respondents No.2 and 3 have appeared on having been received advance notice of the instant petition.

6. In order to rebut the case of learned counsel for the petitioner, learned counsel for respondents No.2 and 3 submits that the service rendered by the petitioner as a daily wager on the post of cleaner cannot be taken into consideration for the purpose of calculating retiral benefits as the services of the petitioner as a daily wager on the post of cleaner was never followed by regularization. It is also a case of learned counsel for the petitioner that in fact the petitioner was appointed afresh on the post of Conductor on regular basis with effect from 18.08.2000.

7. I have heard learned counsel for the parties and have gone through the records available on the case file with their able assistance.

8. The issue involved in the present case is with regard to whether, the service rendered by the petitioner as a daily wager while working on the post of cleaner can be taken into consideration for the purpose of calculating retiral benefits. It is well settled law that the service rendered by a person as a daily wager can be taken into consideration for the purpose of calculating retiral benefits if service rendered by a person as a daily wager is followed by regularization.

9. In case of **Kesar Chand versus State of Punjab through the Secretary and others, AIR 1986 265**, while considering Rule 3.17 of the Punjab Civil Services Rules Vol.II, Full Bench of this Court has held that where the service of a work charged employee was regularised in that case, the work charged period has to be taken into consideration for the purpose of retiral benefits. The relevant para is reproduced as under:-

“.....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 at 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 in a work-charged establishment before his regularization has not be 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 other is not based on any intelligible criteria and, therefore, is not sustainable at law. After the service 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.”

10. It is relevant here to refer to Rule 3.17A of the Punjab Civil Services Rules, Volume II, which reads as under:-

“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 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 wholetime 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.

(iii) Casual or daily rated services.

(iv) Suspension adjudged as a specific penalty.”

11. A conjoint reading of the rule quoted above and observation of this Court would reveal that it is well established now that the period of service rendered on daily wages/work-charged prior to regularization of service is liable to be counted for the purpose of retiral benefits.

12. A perusal of the facts of the present case would show that in fact service rendered by the petitioner as a daily wager on the post of cleaner were never followed by regularization. The petitioner was appointed afresh on the post of Conductor on regular basis on 18.08.2000.

13. In view of the facts and circumstances of the present case, the service rendered by the petitioner as a daily wager from 03.05.1984 to 06.08.2000 cannot be taken into consideration for the purpose of retiral benefits. Finding no merit in the present petition, the same is dismissed.

(DEEPINDER SINGH NALWA)
JUDGE

March 25, 2025
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Whether speaking : Yes/No
Whether reportable : Yes/No