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

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**CWP-7510-2017 (O&M).
Date of Decision: 07.07.2025.**

TEJ RAM

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. B.K. Bagri, Advocate,
for the petitioner.

Mr. Rahul Dev, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for directing the respondents to count petitioner's service rendered on daily wage for grant of retiral benefits and to release the revised retiral benefits along with interest @18% per annum.

2 The facts arising from the present petition are that the Petitioner was appointed on daily wages in August, 1987 and he worked continuously till 31.03.1993. Later on, his services were regularized on the post of Mali cum Chowkidar in the office of Respondent no.5. The petitioner retired on 31.07.2014. After his retirement, a PPO number was issued by Respondent

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no.2, however the retiral benefits were paid only after taking into consideration the regular service period i.e. from 01.04.1993 to 31.07.2014 and the daily wage service rendered by the petitioner was not counted for computing retiral benefits.

3 Petitioner sent a legal notice dated 01.10.2015 to the respondents seeking grant of benefit of the daily wage service as qualifying service for computing the pensionary benefits. However, Respondent no.2 while replying to the same stated that pensionary benefits from 01.04.1993 to 31.07.2014 has already been released on 24.10.2014 and counting of daily wages service comes under the purview of pension sanctioning authority. Hence the present petition.

4 Learned Counsel for the petitioner contends that as per the provision of Rule 3.17-A of Punjab CSR Volume II (which is applicable on Haryana Government employees) daily wage service is to be counted towards pension. The said provisions are reproduced as under:

“(f) Employees retiring from Government service with confirmation (as temporary employees) in any post on or after 5/2/1969 will be entitled to invalid/retiring/superannuation pension and death-cum-retirement gratuity on the same basis as admissible to permanent employees. In case of death of temporary employees in service his family will also be entitled to similar benefits as are admissible to the families of permanent employees. This concession will, however, not apply to:-

(i) Persons paid from contingencies, provided that half of the period of service of such persons paid from contingencies

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rendered from 1st January, 1973 onwards for which authentic records of service is available will count as qualifying service subject to the following conditions:-

(a) Service paid from contingencies should have been in a job involving whole time employment and not part time from a portion of day.

(b) Service paid from contingencies should be in a type of work or job for which regular post should have been sanctioned. Eg: Malis, chowkidars, khalasis etc.

(c) The service should have been such 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 pay scale of pay should bear some relations in the matter of pay to those being paid for similar jobs being performed by staff in regular establishments; and

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

Government of Haryana also issued instructions dated 17.03.2010 followed by another instructions dated 07.02.2014 regarding counting of daily wage service towards pension. Learned counsel for the petitioner further contends that Respondent no 4 counted the daily wage service of similarly situated employee i.e. one Ram Sawroop during the pendency of CWP no. 2778 of 2016.

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5 Respondents in its written statement submit that the case of the petitioner has been reconsidered and the revised pension case has been prepared and sent to the authorities for granting the benefit of daily wage service towards qualifying service for computing the pensionary benefits to the petitioner.

6 The averments made by the Respondents have been admitted by the Learned Counsel for Petitioner and he restricts his prayer to the grant of interest on the delayed release of above stated benefits.

7 The controversy involved in this petition is no more res integra having been settled by Full Bench of this Court in the case of **Kesar Chand v State of Punjab , 1988 (5) SLR 27**, held that that daily wage service followed by regularization is to be counted for the purpose of computing pensionary benefits. Relevant paragraph of the aforesaid judgment is extracted as under: -

“16. Once the services 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 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 regularisation has not been taken into consideration for determining his qualifying

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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.”

8 Similar view was taken by the Division bench of this Court in **Mangat Ram v Haryana Vidyut Prasaran Nigam Ltd., (2005) 141 PLR 578**. Therefore, it is a settled law that daily wage period has to be counted for the purpose of computing retiral benefits.

9 Counsel for Respondents has not been able to give a valid explanation as to why the benefits were not given to the petitioner at the time of his retirement.

10 In view of the above discussion, the present writ petition is allowed. This Court is of the opinion that petitioner needs to be compensated by grant of interest. Petitioner is held entitled to interest @ 6% per annum from the date of his retirement till realization to be disbursed within a period of 3 months from the date of receipt of certified copy of this order, failing which the petitioner shall be entitled to interest @ 9% per annum, which such interest shall be recovered from the officials responsible for causing such delay.

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11 Petition stands allowed in above terms.

July 07, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*