

2025.PHHC.066122-DB



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

**LPA-2823-2024 (O&M)**

**Date of decision: 12.05.2025**

STATE OF PUNJAB & ORS.

.....Appellants

Versus

SUBHASH CHANDER SHARMA

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Ms. Arundhati Kulshreshtha, AAG, Punjab.

**SUDHIR SINGH, J.**

**CM-6912-LPA-2024**

For the reasons given in the application, the same is allowed. Delay of 265 days in filing the appeal is condoned.

**LPA-2823-2024**

Challenge in the instant intra Court appeal is to the order dated 10.01.2024 passed by the learned Single Judge of this Court, vide which the writ petition filed by the respondent was allowed and the appellant-Authorities were directed to count the service rendered by the respondent from 23.01.1973 to 31.03.1976, as qualifying service for calculating his pension. It was further directed that the pension of the respondent shall be revised and retiral benefits, including arrears, shall be paid to him accordingly.

2. Before the learned Single Judge, the respondent (writ petitioner), sought issuance of a writ in the nature of Certiorari quashing the order dated 12.03.2015 (Annexure P-4 with the writ petition) and for issuance of directions to the appellant-Authorities to count his service from 23.01.1973 to 31.03.1976 as qualifying service for the purposes of the pensionary benefits.

3. Learned counsel for the appellants has vehemently argued that the respondent had worked from 23.01.1973 to 31.03.1976 under the scheme of Government of India on ad-hoc basis and the said services came to an end with the end of the said scheme itself. It is, thus, argued that the ad-hoc/temporary service of the respondent could not have been ordered to be counted for the retiral benefits. It is, further argued that even under the ad-hoc/temporary service, the respondent was not the employee of the Punjab Government and was rather, working under the Government of India Scheme and, therefore, in terms of Rule 4.23 of the Punjab Civil Services Rules Volume-II, he is not entitled for any benefit as regards the counting of the said service. Still further, it is argued that for the aforesaid period i.e., 23.01.1973 to 31.03.1976, no service record of the respondent is available with the State Government and more so, the respondent did not implead the Government of India as a party-respondent in the writ petition and in the absence thereof, the observations of the learned Single Judge that the services of the respondent for the aforesaid period being on the regular pay scale shall count for the qualifying service, are legally untenable. It is, thus, argued that all these material aspects have not been taken into consideration by the learned Single

Judge, while passing the impugned order.

4. We have heard learned counsel for the appellants and have also gone through the paper book, including the impugned order.

5. The short question that arises for consideration is whether the impugned order passed by the learned Single Judge requires any interference by this Court.

6. It is not disputed that the respondent had rendered services from 23.01.1973 to 31.03.1976 under the Rural Engineering Survey Scheme sponsored by the Government of India, in the State of Punjab. It is settled law that the ad-hoc services, including the work charged services, are to count for the purposes of pensionery benefits. A Full Bench of this Court in **Kesar Chand vs. State of Punjab, AIR 1988, P&H 265**, has held that even the services of the work charged employees, shall count for pensionery benefits upon regularization of their services. It was held as under:-

“19. In the light of the above, let us examine the validity of rule 3.17 (ii) of the Punjab Civil Services Rules Vol. II. This rule says that the period of service in a work-charged establishment shall not be taken into account in calculating the qualifying service. After the services of a work-charged employee have been regularised he becomes a public servant. The service is under the Government and is paid by it. This is what was precisely stated in the Industrial Award dated June 1, 1972, between the Workmen and the Chief Engineer, P.W.D. (B.& R.), Establishment Branch, Punjab, Patiala, which was published in the Government Gazette dated July 14, 1972. Even

otherwise, the matter was settled by the Punjab Government Memo No. 14095-BRI (3)-72/5383 dated 6th February, 1973 (Annexure P7) where it was stated that all those work-charged employees who had put in ten years of service or more as on 15th August, 1972, their service would be deemed to have been regularised. Once the service 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 strike at arbitrariness because a provision which is arbitrary involves the negation of equality. Even the temporary or officiating service under the State Government had 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 service. The classification which is sought to be made among Government servants who are eligible for lesion 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.

7. Still further, the learned Single Judge has relied upon the latest judgment of the Hon'ble Supreme Court in **Uday Pratap Thakur** vs. **State of Bihar**, 2023 SCC Online SC 527, wherein it has been held that the service rendered as work charged after regularization of the service, shall be counted for qualifying service for pension.

8. In view of the above, we do not find any patent illegality or perversity in the impugned order passed by the learned Single Judge, which may warrant interference by this Court in the instant appeal and the same is hereby dismissed.

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

[ SUDHIR SINGH ]  
JUDGE

[ ALOK JAIN ]  
JUDGE

12.05.2025

himanshu

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No