



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

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CWP-26549-2025 (O&M)
Date of decision: 08.09.2025

Jasvir Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shubham Chandel, Advocate
for Mr. Sunny K. Singla, Advocate for the petitioner.

Mr. Vikas Arora, DAG, Punjab
for respondent No.1.

Mr. Bhanu Pratap Singh, Advocate
for respondents No.2 to 11.

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 of communication/reply dated 17.02.2025 (Annexure P-3), issued by respondent/Department. Further a writ of *mandamus* has been sought, directing the respondents to count the petitioner's contractual service from 02.12.2011 towards seniority, promotion and all consequential benefits, etc.

2. The brief facts of the case are that the petitioner was appointed as Lineman/SSA in the Punjab State Power Corporation Limited (PSPCL) on 02.12.2011, on a contractual basis for two years, against a sanctioned permanent post following a transparent recruitment



process under CRA No. 267/11. The petitioner fulfilled all prescribed qualifications and eligibility criteria and continuously discharged his duties with sincerity and dedication during the contractual period. Upon completion of the contractual period, the petitioner's services were regularised with effect from 01.07.2015 in accordance with departmental policy. Since joining, the petitioner has served the department without any blemish and was promoted as Junior Engineer (Electrical) vide order dated 25.06.2024. The petitioner's service from 02.12.2011 till date has been continuous and uninterrupted against the sanctioned posts. The petitioner served a legal notice dated 16.01.2025 requesting that his entire continuous service be counted for seniority, promotion, and all consequential benefits. The respondents, however, have not decided the claim of the petitioner and issued the impugned reply stating that the matter is pending consideration before the Punjab Government, thereby deferring the claim of the petitioner.

3. Learned counsel for the petitioner submits that the petitioner's contractual service from the date of joining ought to be counted towards seniority, promotion, and all consequential service benefits as he was appointed against a permanent sanctioned post and subsequently regularised without any break in service. It is further submitted that similarly situated employees in other departments of the Punjab Government have been granted such benefits, ensuring parity and equality before the law. The petitioner's claim is supported by binding judicial precedents which recognize that contractual or work-



charge service against sanctioned posts, followed by regularisation, must be counted for pensionary and other service benefits. The arbitrary stand of the respondents deferring the petitioner's claim indefinitely violates Articles 14 and 16 of the Constitution of India.

4. Learned State counsel as well as learned counsel for respondents No.2 to 11, appearing on advance notice, submits that the respondents have acted in accordance with departmental instructions and government policy. The impugned communication clearly states that the matter is pending consideration before the Government of Punjab and therefore, no decision can be taken. The respondents deny any discrimination or violation of the petitioner's rights and contend that the petitioner's claim does not warrant interference at this stage.

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

6. The issue involved in this petition has been authoritatively decided by the Full Bench of this Court in *Kesar Chand and others v. State of Punjab and others*, 1988(5) SLR 25, wherein it was held that the work-charge service rendered prior to regularisation is to be counted as qualifying service for pension and 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.”

7. Further the similar issue came up for consideration before the Division Bench of this Court in **“Harbans Lal Vs. State of Punjab and others”**, 2012(3) SCT 362, wherein it was held that the entire daily wage/work charge service rendered by an employee prior to regularization is to be counted as qualifying service for the purposes of pension, and such an employee, if in service prior to 01.01.2004, shall be governed by the GPF Scheme and entitled to pensionary benefits applicable to employees recruited before 01.01.2004, notwithstanding their regularization after that date. 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.”

8. 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.

9. Moreover, a similar controversy, as involved in the present petitions, has already been decided by the Coordinate Bench of this Court in **CWP No.21492 of 2023** and other connected cases, titled as ***Rameshwar Dass vs State of Haryana and others***, decided on **17.07.2025**.

10. In view of the above, it is clear that the petitioner's contractual service from 02.12.2011 against a sanctioned permanent post, followed by regularisation on 01.07.2015 without any break, is liable to be counted for seniority, promotion, and all consequential benefits. The stand of the respondents that the claim is pending consideration before the Punjab Government is untenable and amounts to unlawful delay and abdication of their statutory duty to decide the claim of the petitioner within a reasonable time.

11. Accordingly, in view of the aforesaid authoritative pronouncements of the Full Bench of this Court in ***Kesar Chand's case (supra)***, the Division Bench of this Court in ***Harbans Lal's case (supra)***, as upheld by the Hon'ble Supreme Court, as well as the Coordinate Bench of this Court in ***Rameshwar Dass's case (supra)***, the present petition is allowed. The impugned communication dated 17.02.2025 (Annexure P-3) is quashed. The respondents are directed to count the petitioner's contractual service from 02.12.2011 towards seniority, promotion, and all consequential benefits, and to decide the



claim of the petitioner within a period of three months from the date of receipt of certified copy of this judgment. If the petitioner is found eligible for any arrears, the payment thereof shall be made within a period of three months from the date of determination of such arrears, however, the said arrears shall not carry any interest.

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

(HARPREET SINGH BRAR)
JUDGE

08.09.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No