



**Dr. Krishan Lal**  
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Retd. Lecturer Political Sc.  
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Whats App No. 9815713297, 9915031482  
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Office Time: 10:00 am to 1:00 pm, 4:00pm to 7:00 pm

A consultancy firm to provide help for the problems of govt. employees & retired pensioners

## **S.P.O. ਵਜੋਂ ਕੀਤੀ ਗਈ Qualifying Service ਨੂੰ ਪੈਨਸ਼ਨਰੀ ਲਾਭਾਂ ਵਾਸਤੇ ਗਿਣਨ ਲਈ ।**

ਇਹ ਹੁਕਮ ਮਾਨਯੋਗ ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈਕੋਰਟ, ਚੰਡੀਗੜ੍ਹ ਵਲੋਂ ਸਿਵਲ ਰਿੱਟ ਪਟੀਸ਼ਨ ਨੰਬਰ 19741 ਆਫ 2020 ਵਲੋਂ ਮੁੱਖ ਸਿਪਾਹੀ / ਪੀ.ਆਰ. ਦਰਸ਼ਨ ਲਾਲ ਅਤੇ 14 ਹੋਰ ਬਨਾਮ ਪੰਜਾਬ ਸਰਕਾਰ ਅਤੇ ਹੋਰ ਵਿੱਚ ਦਿੱਤੇ ਫੈਸਲੇ ਮਿੱਤੀ 23-11-2020 ਦੀ ਪਾਲਣਾ ਵਿੱਚ ਦਫਤਰ ਸਪੈਸ਼ਲ ਡਾਇਰੈਕਟਰ ਜਨਰਲ ਪੁਲਿਸ, ਆਰਮਡ ਬਟਾਲੀਅਨਸ ਪੰਜਾਬ, ਜਲੰਧਰ ਵਲੋਂ: ਪੱਤਰ ਨੰ. 13667-72/ਸੀ.ਆਰ.ਪੀ. ਮਿੱਤੀ 21.12.2020 ਨੂੰ ਪਾਸ ਕੀਤੇ ਗਏ ਹਨ । ਜਿਵੇਂ ਕਿ ਮਾਨਯੋਗ ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈਕੋਰਟ, ਚੰਡੀਗੜ੍ਹ ਵਲੋਂ **CWP No. 9936/2017** ਅਤੇ **7127/2019** ਵਿੱਚ ਹੁਕਮ ਜਾਰੀ ਕੀਤੇ ਗਏ ਸਨ । ਇਹ ਕੇਸ ਉਨ੍ਹਾਂ ਮੁਲਾਜਮਾਂ ਨੂੰ ਪਾਉਣ ਦਾ ਫਾਇਦਾ ਹੈ ਜਿਸਦੀ **S.P.O.** ਦੀ ਸਰਵਿਸ ਤੋਂ ਬਿਨ੍ਹਾਂ ਕੁਲ ਸਰਵਿਸ 25 ਸਾਲ ਤੋਂ ਘੱਟ ਹੈ । **S.P.O.** ਦੀ ਸਰਵਿਸ ਸਿਰਫ **Pensionary** ਲਾਭਾਂ ਲਈ ਹੀ ਗਿਣੀ ਜਾਵੇਗੀ ਨਾ ਕਿ **Pay fixation, Proficiencies step up, Seniority** ਅਤੇ **A.C.P.** ਲਈ ।

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## To Count S.P.O. Service as qualifying Service for Pensionary Benefits

Name & Father Name	
Designation	
Belt No.	
Current Office Name	
Date Of Birth	
Aadhar Card No.	
Date Of Regular Joining as Constable	
Date of Promotion as Head Constable (If Any)	
Period of S.P.O. Service	
S.P.O. Belt No.	
Date of Retirement	
Mobile Number & Whatsapp Number:-	
Email Address	
Residence Address & Distt	
Signature	

**Important Points:-**

1. Send one copy of performa by whatsapp and one by post.
2. Send one copy of Power of Attorney by whatsapp and one by post.
3. Send one copy of Aadhar Card by whatsapp and one by post.

Paytm Payment Mobile Number:- 9915031482  
Google Pay Payment Mobile Number:- 9915031482  
PhonePe Payment Mobile Number:- 9915031482

<b>State Bank of India Budhlada</b>
<b>Distt. Mansa(Punjab)</b>
<b>Current A/c No.39453963229</b>
<b>In Favour of: Krishana Consultancy</b>
<b>IFSC Code: SBIN0050050</b>
<b>Whatsapp No - 98157-13297</b>

# POWER OF ATTORNEY

In the Court of .....

..... [ Plaintiff/Appeallant  
Complainant  
Petitioner

**VERSUS**

..... [ Defendant  
Respondent,  
Accused

**KNOW ALL** to whom these present shall come that I/We undersigned appoint

for the ..... in the above mentioned case to do all the following acts deeds and things or any of them that is to say :-

1. To act appear and plead in the above mentioned case in the court or any other Court in which the same may be tried or heard in the execution or in any stage of its progress until its final decision.
2. Present pleading appeals letter patent appeal cross objection or petitions for execution review, revisions withdrawal compromise or other petitions or affidavit or other documents as shall deemed necessary or advisable for the prosecution of the said case in all its stage.
3. To file and take back documents and to file application for restoration there of in case it is dismissed in default.
4. To withdraw or compromise the said case or submit for arbitration any difference or disputes that shall arise touching or in any manner relating to the said case.
5. To deposit draw any receive money and grant receipt there of and to do all other acts and things which may be necessary to be done for the progress and in the case of prosecutions of said case.
6. To employee and other legal practitioner authorising him to exercise the power and authorities hereby conferred on the advocate whenever he may think fit to do so.

And I/We hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of said for hearing case in consequence from the court when the said case is called up or for any negligence of the said Advocate or his substitute.

And I/We hereby agree that in the event of whole or any part of fee agreed by me to be paid to the Advocate, remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid if any costs are allowed for an adjournment the advocate would be entitled to the same.

**IN WITNESS WHERE OF** I/We agree to set my/our hands to the represent the contents of which have been explained to understand by me/us this the .....

.....day..... 20.....

(Signature or Thumb Impression of client)

Accepted :

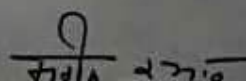
ਦਫਤਰ ਸਪੈਸ਼ਲ ਡਾਇਰੈਕਟਰ ਜਨਰਲ ਪੁਲਿਸ, ਆਰਮਡ ਬਨਜ਼., ਪੰਜਾਬ, ਜਲੰਧਰ।  
(ਐਡਮਨ ਸ਼ਾਖਾ)

ਹੁਕਮ

ਇਹ ਹੁਕਮ ਮਾਨਯੋਗ ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈਕੋਰਟ, ਚੰਡੀਗੜ੍ਹ ਵੱਲੋਂ ਸਿਵਲ ਰਿਟ ਪਟੀਸ਼ਨ ਨੰਬਰ 19741/2020 ਦਾਇਰ ਵੱਲੋਂ ਮੁੱਖ ਸਿਪਾਹੀ/ਪੀ.ਆਰ ਦਰਸ਼ਨ ਲਾਲ ਨੰਬਰ 60/ਸੀ.ਆਰ ਅਤੇ 14 ਹੋਰ ਬਨਾਮ ਪੰਜਾਬ ਸਰਕਾਰ ਅਤੇ ਹੋਰ ਵਿੱਚ ਦਿੱਤੇ ਗਏ ਫੈਸਲਾ ਮਿਤੀ 23.11.2020 ਦੀ ਪਾਲਣਾ ਵਿੱਚ ਪਾਸ ਕੀਤੇ ਜਾ ਰਹੇ ਹਨ।

ਡਾਇਰੈਕਟਰ ਜਨਰਲ ਪੁਲਿਸ, ਪੰਜਾਬ, ਚੰਡੀਗੜ੍ਹ ਦੇ ਦਫਤਰ ਦੇ ਪੱਤਰ ਨੰਬਰ 23/2020/ਐਲ.ਏ-2/3857 ਮਿਤੀ 10.12.2020 ਅਤੇ ਇਸ ਦਫਤਰ ਦੇ ਪੱਤਰ ਨੰਬਰ 43554-57/ਲਿਟੀਗੇਸ਼ਨ ਸੈੱਲ ਮਿਤੀ 18.12.2020 ਅਨੁਸਾਰ ਸਿਵਲ ਰਿਟ ਪਟੀਸ਼ਨ ਨੰਬਰ 19741/2020 ਦਾਇਰ ਵੱਲੋਂ ਮੁੱਖ ਸਿਪਾਹੀ/ਪੀ.ਆਰ ਦਰਸ਼ਨ ਲਾਲ ਨੰਬਰ 60/ਸੀ.ਆਰ ਅਤੇ 14 ਹੋਰ ਬਨਾਮ ਪੰਜਾਬ ਸਰਕਾਰ ਅਤੇ ਹੋਰ ਵਿੱਚ ਮਾਨਯੋਗ ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈਕੋਰਟ, ਪੰਜਾਬ, ਚੰਡੀਗੜ੍ਹ ਦੇ ਹੁਕਮ ਮਿਤੀ 23.11.2020 ਨੂੰ ਲਾਗੂ ਕਰਨ ਦੀ ਪ੍ਰਵਾਨਗੀ ਦਿੱਤੀ ਗਈ ਹੈ। ਇਸ ਲਈ ਡਾਇਰੈਕਟਰ ਜਨਰਲ ਪੁਲਿਸ, ਪੰਜਾਬ, ਚੰਡੀਗੜ੍ਹ ਦੇ ਦਿਸ਼ਾ ਨਿਰਦੇਸ਼ਾਂ ਦੀ ਪਾਲਣਾ ਕਰਦੇ ਹੋਏ ਕੰਟਰੋਲ ਰੂਮ, ਪੀ.ਏ.ਪੀ., ਜਲੰਧਰ ਵਿਖੇ ਤਾਇਨਾਤ ਹੋਠ ਲਿਖੇ ਕਰਮਚਾਰੀਆਂ ਵੱਲੋਂ ਐਸ.ਪੀ.ਓ ਵਜੋਂ ਕੀਤੀ ਗਈ ਨੌਕਰੀ ਨੂੰ ਉਹਨਾਂ ਦੇ ਨਾਵਾਂ ਸਾਹਮਣੇ ਦਿੱਤੇ ਵੇਰਵੇ ਅਨੁਸਾਰ ਸਿਰਫ ਪੈਨਸ਼ਨਰੀ/ਰਿਟਾਇਰਮੈਂਟ ਲਾਭਾਂ ਲਈ ਕੁਆਲੀਫਾਇੰਗ ਸਰਵਿਸ ਗਿਣਿਆ ਜਾਂਦਾ ਹੈ, ਜਿਵੇਂ ਕਿ ਮਾਨਯੋਗ ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈਕੋਰਟ, ਚੰਡੀਗੜ੍ਹ ਵੱਲੋਂ CWP No. 9936/2017 ਅਤੇ 7127/2019 ਵਿੱਚ ਹੁਕਮ ਜਾਰੀ ਕੀਤੇ ਗਏ ਹਨ:-

Sr. No.	Name and Rank	Father Name and Address	DOB	SPO No.	SPO Enlistment	Constable Enlistment	GPF No.
1.	HC/PR Darshan Lal No. 60/CR	Sh.Kartar Chand. House No. 90, Street No.-1, VPC-Umarpura, Batala	08.03.1970	183/BTL	21.05.1992	06.09.2002	97991
2.	HC/LR Om Prakash No. 92/CR	Sh.Pritam Dass. H.No. 755/1, Street No.-6, Tibba Sahib, Hoshiarpur	12.06.1973	HPR/230/R	06.04.1992	02.09.2002	98006

  
(ਏ.ਆਈ.ਜੀ., ਪੀ.ਏ.ਪੀ.)

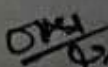
ਵਾਸਤੇ ਸਪੈਸ਼ਲ ਡਾਇਰੈਕਟਰ ਜਨਰਲ ਪੁਲਿਸ,  
ਆਰਮਡ ਬਨਜ਼, ਪੰਜਾਬ, ਜਲੰਧਰ

43667-72  
ਨੰਬਰ

ਸੀ.ਆਰ.ਸੀ. ਮਿਤੀ 21-12-2020

ਉਪਰੋਕਤ ਦਾ ਉਤਾਰਾ ਹੇਠ ਲਿਖਿਆ ਨੂੰ ਸੂਚਨਾ ਅਤੇ ਲੋੜੀਂਦੀ ਕਾਰਵਾਈ ਹਿੱਤ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ:-

1. ਡਾਇਰੈਕਟਰ ਜਨਰਲ ਪੁਲਿਸ, ਪੰਜਾਬ, ਚੰਡੀਗੜ੍ਹ ਦੇ ਦਫਤਰ ਨੂੰ ਪੱਤਰ ਨੰਬਰ 23/2020/ਐਲ.ਏ-2/3857 ਮਿਤੀ 10.12.2020 ਦੇ ਹਵਾਲੇ ਵਿੱਚ।
2. ਡੀ.ਐਸ.ਪੀ., ਕੰਟਰੋਲ ਰੂਮ, ਪੀ.ਏ.ਪੀ., ਜਲੰਧਰ ਨੂੰ ਉਹਨਾਂ ਦੇ ਦਫਤਰ ਦੇ ਪਿੱਠ ਅੰਕਣ ਨੰਬਰ 35414/ਪੀ.ਏ.ਪੀ./ਸੀ.ਆਰ.ਜੇ ਮਿਤੀ 18.12.2020 ਦੇ ਸਬੰਧ ਵਿੱਚ।
3. ਇੰਚਾਰਜ, ਲਿਟੀਗੇਸ਼ਨ ਸੈੱਲ ਨੂੰ ਉਹਨਾਂ ਦੇ ਦਫਤਰ ਦੇ ਪੱਤਰ ਨੰਬਰ 43554-57/ਲਿਟੀਗੇਸ਼ਨ ਸੈੱਲ ਮਿਤੀ 18.12.2020 ਦੇ ਹਵਾਲੇ ਵਿੱਚ।
4. ਸੁਪਰਡੈਂਟ, ਲੇਖਾ ਸ਼ਾਖਾ | ਦਫਤਰ ਵਿੱਚ
5. ਐਸ.ਏ-ਪੀ.ਐਫ |
6. ਸਬੰਧਤ ਕਰਮਚਾਰੀ ਮਾਰਫਤ ਕੰਟਰੋਲ ਰੂਮ, ਪੀ.ਏ.ਪੀ., ਜਲੰਧਰ।

  
21/12/2020

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.2371 of 2010  
Date of decision : 31.8.2010

Harbans Lal

... Petitioner

Versus

The State of Punjab and others

... Respondents

**Coram: Hon'ble Mr.Justice M.M.Kumar  
Hon'ble Ms.Justice Ritu Bahri**

Present: Mr.Shalender Mohan, Advocate for the petitioner.  
Mr.Suvir Sehgal, Additional Advocate General Punjab

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

**Ritu Bahri, J.**

The petitioner has filed this petition under Articles 226/227 of the Constitution of India praying for issuance of a writ of mandamus for re-fixation of the date of his regular appointment by counting daily wage service towards qualifying service for pension. By doing so, the petitioner may be permitted to continue with the GPF Scheme and entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Government Service prior to 01.01.2004.

The petitioner was initially appointed as daily wages employee against the post of Pump Operator. His initial date of joining is 1.8.1988 and his services were regularized by the department on 28.3.2005. Prior to 01.01.2004, Punjab Government employees were covered under the General Provident Scheme (in short the 'GPF'). These employees were entitled to pensionary benefits in accordance with the Punjab Government Rules. On 2<sup>nd</sup> March, 2004, Govt. of Punjab amended the Punjab Civil Services Rules, Vol.1 Part 1 as follows:-

- “(i) These rules may be called the Punjab Civil Services (First Amendment) Rules, 2004.
  - (ii) These shall be deemed to have come into force with effect from the 1<sup>st</sup> day of January, 2004.
2. In the Punjab Civil Services Rules, Volume-I, Part-I, in rule 1, 2, the following proviso shall be added at the end of sub rule (1);

Provided that the rules in Part I- Pensions in Volume II of these rules called the Punjab Civil Service Rules, Volume II shall not apply to the Government employees who are appointed to the posts. They shall be covered by new ‘Defined Contributory Pension Scheme’ to be notified to the State Government in due course”.

In pursuance to these amendments, a new Re-structured Defined Contribution Pension Scheme has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004 vide Punjab Government Department of Finances Instructions dated 12.12.2006 (Annexure P-1). The Punjab Government Vide letter dated 30.5.2008 (Annexure P-3), clarified regarding the implementation of the new Re-structured Defined Contribution Pension Scheme in respect of all its employees. The Government clarified that those daily wagers who were working under Punjab Government prior to 1.1.2004 but their services have been regularized after 1.1.2004, the new defined contributory pension scheme shall be applicable to them w.e.f. 1.1.2004.

The Chief Engineer, Punjab, Waster Supply and Sanitation Department, Patiala vide Annexure P-4 dated 25.6.2008 (Annexure P-4), issued instructions that deduction of GP Fund of the workers be stopped who were in Govt. service prior to 1.1.2004 but their services were regularized after 1.1.2004. This direction was to be implemented w.e.f. the month of June, 2008. The petitioner was being forced to give an undertaking that he would opt for a new Re-structured Defined Contribution Pension Scheme.

The salary of the petitioner for the months of June and July, 2010 had been withheld for not giving an option for the said new scheme.

Written statement has been filed by the respondents. It has been mentioned in the short affidavit dated 29.3.2010 by Executive Engineer, Water Supply and Sanitation Division, Rajpura that salary up to the month of January, 2010 has been given after deducting the amount which was to be deposited with the treasury under the new Contributory Pension Scheme. This payment has been made as per Annexure R-1. The payment of salary has been accepted by the petitioner vide receipt dated 23.02.2010 (Annexure R1/2). The respondents in their reply dated 07.08.2010, have relied upon the Finance Department's instructions dated 19.5.2008 wherein it has been directed that the daily wagers, who were in Government service before 01.01.2004 and whose services have been regularized on or after 01.01.2004, a new "Defined Contributory Pension Scheme" shall be applicable to them. This view of the Finance Department was reiterated vide their I.D. letter dated 22.1.2010. Reliance has been placed by the respondents on a Single Bench judgment in case of **Ramesh Singh and others Vs. State of Punjab** (CWP No.5092 of 2010 decided on 22.3.2010).

We have heard Mr.Shalender Mohan, Advocate appearing on behalf of the petitioner and Mr.Suvir Sehgal, Additional Advocate General Punjab.

Mr.Shalender Mohan, Advocate for the petitioner has vehemently argued that by virtue of the date of regularization of the petitioners i.e. 28.3.2005, they fall beyond 1.1.2004 which is cutoff date for the pension scheme so enforced. He argues that a bare perusal of the Rule 3.17-A of the Punjab Civil Services Rules Vol II prescribes that all services

rendered on establishment interrupted or continuous shall count as qualifying service for pension. Rule 3.17-A of the Punjab Civil Services Rules is reproduced as under:-

“3.17-A (1) subject to all 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 1<sup>st</sup> 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 whole-time 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 through 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 service.
  - (iv) Suspension adjudged as a specific penalty.”

However, the above rule also provides that after 1.1.1973, half of the service paid from contingencies will also be allowed to count towards pension at the time of absorption in regular employment, but in any case casual or daily rated service, amongst others cannot be counted towards qualifying service for pension.

Mr. Shalender Mohan, Advocate for the petitioner has further argued that this issue has been considered in a number of judgments while



interpreting Rule 3.17 A of the CSR Vol.2. Reference can be made to the judgments of this Court in case of **Kashmir Chand** Vs. **Punjab State Electricity Board and others** 2005(4)RSJ, 581 and **Ram Dia and others** Vs. **Uttar Haryana Bijli Vitran Nigam Ltd. and another** 2005(4) RSJ, 689, **Hari Chand** Vs. **Bhakra Beas Management Board and others**, 2005(2) RSJ, 373 and **Balbir Singh** Vs. **State of Haryana and others** 2004(4) RSJ, 71. Full Bench while dealing with a similar controversy in the case of **Kesar Chand** Vs. **State of Punjab** 1998 (2) PLR 223 has held 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 established before his regularization has not been taken into consideration for determining the 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 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.”

9. The aforesaid view was further reiterated by this Court in the cases of Joginder Singh, Hazura Singh and Nasib Singh (supra). A conjoint reading of the rules, quoted above and the observations of the Full Bench would reveal that it is by now well established that period of service rendered on daily wage/work charges prior to regularization of services is liable to be counted for the purposes of gratuity and pension.”

The consistent view of the judgment is that work charge service rendered before regularization, is liable to be counted as qualifying service for the purpose of pension. A Division Bench of this Court was seized of a case in which vires of Rule 3.17 A was challenged whereby half of the service paid out of contingency fund was to be counted as qualifying service. This rule has been struck down in a judgment of this Court in case of **Joginder Singh v. State of Haryana**, 1998 Vol.1, SCT 795. Once the entire service paid out of contingency, is liable to be counted for the purpose of qualifying service, a casual/daily rated service is also bound to be counted as qualifying service.

A Division Bench judgment in case of **Smt.Ramesh Tuli Vs. State of Punjab and others**, 2007(3) SCT, 791 examined the proposition as to what would be the qualifying service for pension as per Clause 6(6) of the 1992 Pension Scheme applicable to the Punjab Privately Management Recognized Schools Employees. In paragraph 6 of the judgment, the following observation has been made :-

“There is another aspect of the matter. Hon’ble the Supreme Court in the case of Vansant Gangaramsa Chandan v. State of Maharashtra, 1996(4) SCT 403:

JT 1996 (Supp.) SC 544, has considered clause 23 of Chapter VI of a Pension Scheme of the Hyderabad Agricultural Committee, which is as under:-

“4.Clause 23 of Chapter VI in the scheme reads as under:

“Qualifying service of a Market Committee employee shall commence from the date he takes charge of the post to which he is first appointed or from the date the employer started deducting the P.F. contribution for the employee which ever later.”

It was held that the clauses of the Scheme have to be read by keeping in view the fact that pension is not a bounty of the State and it is earned by employees after rendering long service to fall back upon after their retirement. The same cannot be arbitrarily denied. The clause was subjected to the principle of ‘reading down’ a well known tool of interpretation to sustain the constitutionality of a statutory provision and accordingly it was read down to mean that the qualifying service could commence either from the date of taking charge of the post to which the employee was first appointed or from the date he started contributing to the Contributory Provident Fund whichever was earlier. The ratio of the above mentioned judgment would apply to the facts of the instant case, inasmuch as, the provision made in clause 6(6) of the 1992 Scheme has to be read down to mean that qualifying service would commence from the date of continuous appointment, which is 17.8.1965 in the present case, or from an earlier date if the employer had started contributing to the Contributory

Provident Fund whichever is earlier. Therefore, the petitioner would be entitled to count her service with effect from the date of her appointment and approval i.e. 17.8.1965.”

The writ petition was allowed and the petitioners were held entitled to count their entire service w.e.f. 17.8.1965 to 30.9.2001 as qualifying service for the purposes of pension. However, the Contributory Provident Fund was required to be adjusted and deducted from the arrears of her pension. We come to the conclusion that the petitioners’ initial date of appointment after regularization will be the date on which employee takes charge of the post. Once the entire service of a daily wager is to be counted as qualifying service then his date of appointment will relegate back to his initial date of appointment i.e. 1988 and he cannot be ousted from pension scheme by applying the date of regularization i.e. 28.3.2005 which is evidently after the new scheme or new restructured defined Contribution Pension Scheme came into force w.e.f. 1.1.2004.

Reliance has been placed by the respondents on a Single Bench judgment in case of **Ramesh Singh and others Vs. State of Punjab** (CWP No.5092 of 2010 decided on 22.3.2010). No benefit can be derived by the State on behalf of the judgment because Rule 3.17 of the Punjab Civil Service Rules Vol.II has not been discussed in the judgment. A request for extension of pension scheme has been repelled in the judgment on the ground that petitioners who were working in the Board on work charge basis were regularized by the Board. Since, there was no scheme of pension in the Board, their claim of pension was rejected. On the other hand, the employees who had come from the department of Health on deputation to the Board, and who on repatriation to the parent department were held entitled to a pension

by virtue of pension scheme applicable in the parent department. This judgment is not applicable on the facts in the present case.

The next question for consideration is whether the clarification issued by the State of Punjab, vide instructions dated 30.5.2008 (Annexure P-3) which runs against amendment made vide Annexure P-2. A similar issue has come up before the Hon'ble Division Bench of this Court in case **of Harjinder Singh Vs. State of Punjab 2004(3)** SCT 1. The Division Bench while interpreting the executive instructions vis-à-vis statutory rules namely, pension rules held as follow:-

“The above instructions issued by the Director Local Government purporting to interpret the Pension Rules are in fact contrary to the same. Besides, the said instructions cannot substitute or supplant the substantive provisions of the Pension Rules. However, as already notice above, there is nothing in the Pension rules which requires the ‘qualifying service’ to be computed from the date of the employee makes contribution towards C.P.Fund or from the date of his confirmation. Rather the position is that the ‘qualifying service’ is to be counted in terms of Rule 2(j) for the period of service rendered by the employee for which he is paid from the Municipal Funds which is the fund constituted under Section 51 of the Punjab Municipal Act. The emphasis on the words “appointed on regular basis” in the above memo on the basis of Rule 1 (3) (ii) of the Pension Rules is also misplaced. Rule 1(3)(ii) of the Pension Rules, in fact provides that the Pension Rules shall apply to the employees of the Committee who are appointed on or after the first day of April, 1990 on whole time regular basis and opt for the said rules....”.

The Bench, thereafter, concluded as follows:-

“17. Keeping in view the above facts and circumstances, it is evident that the stand of the respondents that the ‘qualifying service’ of the petitioner is to be counted from the date he started making contributions to the C.P. Fund is absolutely misconceived and baseless. The same is not supported by the Pension Rules applicable in respect of the petitioner. The petitioner, therefore, has been unnecessarily denied the benefit of pension, which as per the settled law, is not a bounty or a matter of grace nor an ex gratia payment payable at the sweet will and pleasure of the Municipal Council (respondent No.4). It is a payment for the past service rendered and is a social welfare measure to

those who in the hey day of their life rendered service on an assurance that in their old age they would not be left in the lurch. The payment of pension is governed by the Pension Rules governing the grant of pension to the employees of the Municipal Council. It is the liability undertaken by the Municipal Council under the Pension Rules and whenever it becomes due and payable it is to be paid.”

This view has been followed by a Division Bench of this Court in case of **Hans Raj Vs. State of Punjab and others**, 2005(3) RSJ, 262. In this case the Division Bench examined the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994. Vide instructions dated 8.1.1999, the State of Punjab had provided that since the Pension Rules has been made applicable in lieu of CPF, the period to be considered as qualifying for pension has to be restricted to the period for which the employee was contributing to his CPF. These instructions were held contrary to the Pension Rules by the Division Bench. The Division Bench held that the said instructions cannot substitute or supplant the substantive provisions of the Pension Rules. The petitioner was held entitled to count his entire service from 1962 to 1998 as qualifying service for the purpose of pension. The condition that qualifying service would commence from the date of contribution to the CPF, has been rejected by the Division Bench.

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 1.1.2004. 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 1.1.2004.

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 30.5.2008 (Annexure P-3), the new defined Contributory Pension Scheme would be applicable to all those employees who have been working prior to 1.1.2004 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.

No order as to costs.

**(M.M.Kumar )  
Judge**

**(Ritu Bahri)  
Judge**

31.08.2010

*sd*

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

**Civil Writ Petition No. 9936 of 2017 (O&M)  
Date of Decision: 15.02.2018**

Sukhjeet Singh and others

..... Petitioners

**Versus**

The State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH**

Present: Mr. A.K. Walia, Advocate  
for the petitioners.

Mrs. Ishneet Kaur, Assistant Advocate General, Punjab  
for the respondents/State.

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**JASWANT SINGH, J.**

1. Sukhjeet Singh and 13 others have filed present writ petition under Article 226 of the Constitution of India seeking writ of mandamus directing the respondents to count the services rendered by them as Special Police Officers (for short 'SPO') as qualifying service for the extension of benefit of pay fixation, proficiencies step up, ACP fixation, seniority and pensionary benefits.

2. The conceded position arising from the present writ petition is that the petitioners were enlisted as SPO during 1991 & 1992 and they were absorbed/appointed as Constables during 1993-94. The period during which all the petitioners worked as SPO is not counted as qualifying service for different purposes. As per petitioner, the period during which they worked as SPO should be counted towards qualifying service for all intent and purposes. The petitioners are heavily relying upon judgment of this Court in the case of ***Harbans Lal Versus State of Punjab*** (CWP No. 2371 of 2010)



which has been followed by different Benches of this Court especially in the case of **Constable Rajesh Kumar Versus State of Punjab** (CWP No. 24472 of 2015).

3. The counsel for the State of Punjab contended that all the petitioners were appointed as Constable in the year 1993-94, therefore, judgment of this Court in the case of **Harbans Lal Versus State of Punjab** is not applicable because judgment is applicable where an employment is regularized after the cut off date i.e. 01.01.2004. It would be apt to notice here that w.e.f. 01.01.2004, the State Government has abolished Pension Scheme and introduced contributory Pension Scheme.

4. Before adverting to present controversy, it would be profitable to notice ratio of judgment in the case of **Harbans Lal Versus State of Punjab**. Division Bench of this Court after noticing decision of Full Bench of this Court in the case of **Kesarchand Versus State of Punjab 1998 (2) PLR 223** has held that daily wage period rendered before regularization, is liable to be counted as qualifying service for the purpose of pension.

5. After having scrutinized record of the case and hearing arguments of both the counsels, this Court finds that present petition deserves to be allowed. Division Bench of this Court in the case of **Harbans Lal (supra)** has already laid down the law holding that Daily Wages Service rendered before regularization would be counted as qualifying service for the purpose of pension. In the present case, the petitioners were appointed during 1991-92 and were regularized during 1993-94. The petitioner are eligible to benefit extended by this Court in the case of **Harban Lal (supra)**. The period during which all the petitioners worked as SPO would be counted for the purpose of pension. In the case of **Harbans Lal (supra)**

and all other cited cases, this Court has ordered to count Daily Wage Period for the purpose of pension and no other benefit has been extended, therefore, the period during which petitioners worked as SPO would be counted for the purpose of pension and no other benefit as claimed by petitioners would be admissible to them.

6. In view of aforesaid finding, the present petition is **partly allowed** and respondents are directed to count period during which petitioners worked as SPO as qualifying service for the purpose of pension.

Since the main case stands decided, therefore, no orders are required to be passed in the pending miscellaneous application(s), if any.

**February 15, 2018**

*'dk kamra'*

**( JASWANT SINGH )  
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No. 7127 of 2019

Date of decision : 01.04.2019

Jarnail Singh & ors.

...Petitioners

V/s

State of Punjab & ors.

...Respondents

**BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Jasbir Singh Mohri, Advocate for the petitioners.

**RAJAN GUPTA J.**

Notice of motion.

On the asking of court, Ms. Anu Chatrath, Addl. A.G. Punjab, who is present in court, accepts notice on behalf of official respondent(s). She at the outset submits that plea of the petitioners shall be considered in light of judgment in *CWP No. 2371 of 2010* titled as *Harbans Lal vs. State of Punjab & ors.* decided on 31.08.2010, within six weeks from today.

Learned counsel for the petitioners is satisfied with the aforesaid statement.

In view of above, no further direction is necessary. Petition is disposed of.

April 01, 2019

Ajay

(RAJAN GUPTA)  
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No

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

CWP-19741-2020  
Date of decision: 23.11.2020

HC/PR Darshan Lal and others                                 ....Petitioners

versus

State of Punjab and others                                     ....Respondents

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

**Present:** Mr. Jasbir Singh Mohri, Advocate  
for the petitioners.

**FATEH DEEP SINGH, J.(ORAL)**

Due to the outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

The petitioners in all numbering 15 have come up in this civil writ petition by virtue of Articles 226/227 of the Constitution of India seeking directions to the respondents to count the service rendered by the petitioners as SPOs as qualifying service for all intents and purposes including grant of all service benefits.

Notice of motion to official respondents-State.

Mr. Shireesh Gupta, Senior DAG, Punjab puts in appearance and accepts notice on behalf of the official respondents-State. Copy supplied.

Heard.

Upon hearing the two sides and on perusal of the records as is the claim of the petitioners that they have served legal notice dated 28.019.2020 upon the respondents by way of Annexure P-11 in respect of the claim being raised in the present writ petition, the petition stands disposed off with the directions to the respondents to duly consider the claim raised in the legal notice as representation by the petitioners, by passing a speaking order, preferably within a period of two months from the date of receipt of the certified copy of this order, failing which, they will be penalized with costs of Rs.5,000/- payable to the petitioners.

The petition stands disposed off accordingly.

23.11.2020

*Neha*

(FATEH DEEP SINGH)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No