

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

113

**CWP-31608-2026 (O&M)
Date of decision: 25.09.2026**

Post Graduate Institute of Medical Education and
Research (PGIMER), Chandigarh

..... Petitioner

Versus

Central Administrative Tribunal, Chandigarh
and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE MINDERJEET YADAV**

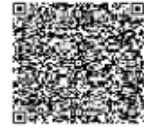
Present:- Ms. Sukhmani Patwalia, Advocate (through VC)
for the petitioner.

Mr. Karan Singla, Advocate
for respondents No.3 to 5.

HARSIMRAN SINGH SETHI, J.(ORAL)

1. The present petition has been filed challenging the order passed by the Central Administrative Tribunal (hereinafter referred to as the 'Tribunal') in OA No.59/2022 dated 09.09.2025, by which, the three respondents herein have been granted the benefit under Old Pension Scheme by placing reliance upon the Division Bench judgment of this Court in **CWP-2371-2010** titled '**Harbans Lal Vs. State of Punjab and others**', **decided on 31.08.2010**, which judgment has attained finality upto the Hon'ble Supreme Court of India.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

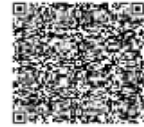


3. The private respondents were engaged starting from January, 1994 till June, 1994 to work as a Mortar Mate in a regular pay-scale as temporary/work charged employee. Though initially appointed for a period of six months but as the work on such post existed, respondents continued to work against such post on work charged basis and ultimately, in view of decision dated 06.08.2016, their services were regularized.

4. It may be noticed that respondents No.4 to 6 while working on such post, were given regular increment from the date they were appointed and that too in a regular pay-scale.

5. After the grant of the said benefit of regularization, the respondents claimed the benefit under the Old Pension Scheme, which was not extended to them by the petitioner, leading to filing of the original application before the Tribunal. The Tribunal allowed the application for grant of benefit to respondents in view of Old Pension Scheme by placing reliance upon the judgment of the Hon'ble Supreme Court of India in ***Harbans Lal (supra)***, to hold that in case an employee was working prior to 01.01.2004, are to be considered under the Old Pension Scheme even if their services were regularized after the New Pension Scheme was made operational. The said order granting the benefit under the Old Pension Scheme to the respondents has been challenged by the petitioner.

6. Learned counsel for the petitioner argues that though, it is a conceded fact that the respondents were appointed in a regular pay-scale and were granted increments for every year but as they were treated as work charged employees, they were being paid out of the contingency fund. Hence, granting of benefit under Old Pension Scheme is incorrect. Further argument has been raised that as, on the date when the services of the



-3-

respondents were regularized as Mortar Mates, there did not exist any sanctioned post of the Mortar Mate and therefore, once there was no sanctioned post on the date of regularization, the grant of benefit under Old Pension Scheme could not have been extended by the Tribunal.

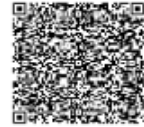
7. We have heard learned counsel for the parties and have gone through the record with their able assistance.

8. It may be noticed that certain facts are not disputed that the respondents are continuously working for the last 32 years in regular pay-scale with increment with the respondents starting from the year 1994. It is also a conceded fact that in the year 2016, their services were regularized and as of now they are working on a regular basis and two of the respondents have already retired.

9. The question which arises is whether keeping in view the facts and circumstances noticed hereinbefore, the order passed by the Tribunal that the respondents are to be treated under Old Pension Scheme is correct as per the settled principle of law or not.

10. As per the judgment in ***Harbans Lal (supra)***, any employee who was appointed prior to the promulgation of the New Pension Scheme which was made operational from 01.01.2004 and continued in service even after the New Pension Scheme was made operational, such employee will be entitled to be treated under the Old Pension Scheme even if, the services of such employees were regularized during the operation of the New Pension Scheme i.e. after 01.01.2004. The relevant paragraph of the said judgment is as under:-

"16. From the above discussion, we have come to the conclusion that the entire daily wage service of the petitioner

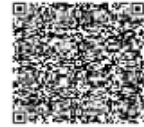


from 1988 till the date of his regularisation is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. service prior to 1.1.2004. The new Restructured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government 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.

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 30.5.2008 (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 regularised 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."

11. The said judgment was upheld by the Hon'ble Supreme Court of India in SLP No.004769 of 2014 wherein the said benefit has been extended to a large number of employees who were appointed prior to the promulgation of New Pension Scheme but the regularization of their services was done after the operation of the New Pension Scheme, they have been extended the benefit under the Old Pension Scheme.

12. The said question of law has again been reiterated by the Hon'ble Supreme Court of India recently in '**Punjab School Education**

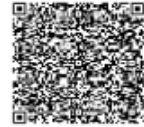


Board and another Vs. Satnam Singh’, 2026 INSC 965 and relevant paragraphs of the same are as under:-

"29. We find that the Division Bench had correctly placed reliance on **Harbans Lal (supra)**. To recapitulate, in that case, the concerned employee was initially appointed as a Pump Operator on 01.08.1988 on a daily-wage basis. His services were regularized on 28.03.2005. Pursuant to the direction of the State Government dated 30.05.2008, the Chief Engineer had directed that GPF deductions be stopped for workers (including said employee) who had entered Government service before 01.01.2004 but were regularized afterwards. The High Court in those facts had held that the daily-wage service from 1988 until regularization had to be counted as qualifying service for pension. Because that service began before 01.01.2004, he was deemed to have entered Government service before the cutoff date. Consequently, the new Defined Contribution Pension Scheme did not apply to him. The High Court further held that the 30.05.2008 clarification could not amend or override the statutory amendment to the Punjab Civil Services Rules, and the employee therefore remained governed by the GPF Scheme and was entitled to the pensionary benefits applicable to Punjab Government employees recruited before 01.01.2004.

30. Here, too, the Single Judge and Division Bench had rightly held that the services by respondent-employees rendered on contract/ad hoc/daily wage basis prior to regularization must be computed as qualifying service for the purpose of retiral and pension benefits. The breaks in service were either 'notional' or artificial/administrative breaks, or precipitated by Court orders. They must be ignored and the service should be treated as continuous.

31. The fact that the appellant-Board is an autonomous body cannot come to its rescue; in fact, the High Court on 14.12.2001 had upheld that it was free to adopt or reject the



Government Policy dated 23.01.2001, despite it being made expressly applicable to public sector undertakings, corporations, boards, local authorities and other autonomous bodies in the State of Punjab. The appellant-Board had thereafter voluntarily adopted the policy mutatis mutandis. In fact, we also find that this dimension i.e., mutatis mutandis rather than wholesale adoption, also negatives the appellant-Board's various contentions such as that the respondent-employees had to qualify a typewriting test, complete one year probation period, produce medical certificate, etc. as this merely indicates suitable amendment of the regularization policy to meet the appellant-Board's needs and not fresh appointment per se.

32. We note that respondent-employees have also drawn our attention to the fact that employees similarly situated in other departments have been granted identical relief by the High Court itself and to hold the respondents ineligible now would be prima facie discriminatory.

33. On a cumulative assessment of the material on record, therefore, we are satisfied that the decisions of the Courts below are legally sound and based on correct application of law to facts, and there is no illegality or infirmity that would warrant our interference in appeal. The respondent-employees were indeed regularized and are entitled to be treated as having entered Government service prior to 01.01.2004 and therefore fall under Tier II of the Defined Contributory Pension Scheme. They have the discretion to choose either the old GPF pension scheme or the new scheme, if they opt for it."

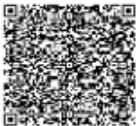
13. Keeping in view the above settled principle of law, as the respondents were appointed much prior to the promulgation of the New Pension Scheme, they would be entitled to be treated under the Old Pension Scheme even if their services were regularized thereafter when the New Pension Scheme has already been made operational.



14. Learned counsel for the petitioner has not been able to dispute the settled principles of law noticed hereinabove.

15. The argument which has been raised by learned counsel for the petitioner is that there were no sanctioned posts of the Mortar Mate in the year 2016 when their services were regularized. It may be noticed that in case such an argument is accepted, then even the regularization could not have been ordered. Once, by noticing this fact that there was no sanctioned posts of the Mortar Mate existed in the year 2016, still their services have been regularized against the other posts which were vacant, then such post against which their services have been regularized are to be treated as the post of Mortar Mate for all intents and purposes. Hence, such an argument cannot be brought into operation to deny the benefit to the respondents under the Old Pension Scheme.

16. Further, it has been argued by the learned counsel for the petitioner that the respondents were being paid out of the contingency fund prior to their regularization, thus, their claim should not be considered by the Tribunal so as to be covered under the Old Pension Scheme. It may be noticed that the respondents were been given the regular pay-scale from the date of their initial appointment prior to their regularization with increments every year. In case, respondents were working under the contingency, such benefit could not have been extended as then such appointment would have only been treated as a stop gap arrangement for a specific purpose but once the appointment continues for a period of three decades, merely that the petitioners were paying the respondents out of the contingency fund, will not defeat the claim of the respondents to be treated under the Old Pension Scheme.



17. No other arguments were raised. The order was dictated in the open Court in the presence of counsel for the parties.
18. Keeping in view the above, no ground is made out for any interference by this Court in the present petition and accordingly, the same is dismissed.
19. The pending misc. application(s), if any, shall stand disposed of accordingly.

(HARSIMRAN SINGH SETHI)
JUDGE

(MINDERJEET YADAV)
JUDGE

25.09.2026
D.Bansal

Whether speaking/reasoned	Yes
Whether Reportable	No