



MOST URGENT/DATE BOUND
COURT MATTER

From

The Additional Chief Secretary to Government Haryana
Finance Department

To

All the Administrative Secretaries in Haryana.

Memo No. 1/10/2026-1Pension(FD)
Dated Chandigarh, 02.09.2026

Subject: CWP No.20263 of 2024- Om Prakash Vs State of Haryana and others (alongwith other 94 connected cases)—Date of decision-09.07.2026

Kindly refer to the subject cited above.

I have been directed to inform that the Hon'ble Punjab & Haryana High Court vide order dated 09.07.2026 (may be downloaded from Punjab and Haryana High Court website) has disposed of CWP 20263 of 2024 titled as Om Prakash Vs State of Haryana and others (alongwith 94 other connected cases) (Total 95 petitions), wherein Hon'ble Punjab and Haryana High Court classified the case in two categories:

- a) Category I consists of those cases wherein the petitioners, who were appointed on part-time/temporary/contractual basis prior to 01.01.2006, but were regularized subsequent to the said date, are claiming pensionary benefits under the Old Pension scheme. Crucially, the petitioners seek the counting of their past service rendered on part time basis as qualifying service for pension.
- b) Category II consists of those cases wherein the petitioners are claiming benefits under the Old Pension Scheme on the basis of Office Memorandum dated 08.05.2023 issued by the State of Haryana on the ground that they were appointed against posts/vacancies that were notified/advertised before the introduction of the New pension scheme.

The operative part of orders are reproduced below:

"36. In view of the foregoing discussion, the present bunch of petitions is disposed of in the following terms:

- a) **In the cases falling under Category I, the impugned orders denying pensionary benefits under the Old Pension Scheme are hereby quashed and set aside. The respondents are directed to count the past service rendered by the petitioners on a part-time /temporary /contractual basis prior to their regularization as qualifying service for pension, and accordingly fix/release their consequential pensionary and retiral benefits under the Old Pension Scheme along with arrears within a period of six weeks from the date of receipt of certified copy of this order.**
- b) **In the cases falling under Category II, the petitioners are entitled to the benefit of the Office Memorandum dated 08.05.2023, and accordingly are directed to exercise their option to switch over to the Old Pension Scheme within a period of six weeks from the date of receipt of certified copy of this order. Upon receipt of options, the respondents shall process their claims and fix/release their consequential**



pensionary and retiral benefits under the Old Pension Scheme along with arrears within a further period of six weeks."

Legal opinion from Ld. Advocate General, Haryana has been sought in this case. The Ld. Advocate General, Haryana has opined that the aforesaid cases are **fit for filing LPA(s)**. The detailed legal opinion of Ld. Advocate General, Haryana (consisting of 17 pages may be downloaded from Finance Department website) for further necessary action with respect to above said judgement.

Accordingly, it is requested to file LPA in the case(s) pertaining to your department against the Order dated 09.07.2026 passed by Hon'ble Punjab and Haryana High Court in CWP No. 20263 of 2024 and other connected cases, in consultation with Ld. Advocate General, Haryana within next ten days, under intimation to Finance Department.

This may be treated as Most Urgent.

Ne 02.09.2026
Accounts Officer (Pension)

for Additional Chief Secretary to Government Haryana
Finance Department

Endst.No.1/10/2026-1Pension (FD)

Dated, Chandigarh, the 02.09.2026

A copy of the above is forwarded to the Ld. Advocate General, Haryana, Chandigarh for information and necessary action.

Ne 02.09.2026
Accounts Officer (Pension)

for Additional Chief Secretary to Government Haryana
Finance Department

Endst.No.1/10/2026-1Pension (FD)

Dated, Chandigarh, the 02.09.2026

A copy of the above is forwarded to the Principal, Accountant General (A&E)/Audit, Haryana, Chandigarh for information and necessary action.

Ne 02.09.2026
Accounts Officer (Pension)

for Additional Chief Secretary to Government Haryana
Finance Department

CC:

1. DA/FD (Legal Cell).
2. Incharge Computer Cell (FD) for uploading on the website.

LEGAL OPINION

Subject: - CWP No. 20263 of 2024 titled as Om Parkash Vs. State of Haryana and ors connected matters.

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I have gone through the order dated 09.07.2026 passed by the Ld. Single Judge contents of the writ petition(s) and the reply filed in cases in which the department has filed. am of the opinion that these are fit cases for filing LPA(s) on the basis of facts and reasons as given hereinafter.

1. The brief facts of the present one set of the petitions(s) has been filed by the part time Sweeper/daily wages/contractual employees who were engaged on part time/daily wages/contract basis prior to 01.01.2006, but their services were not regularized under any of the policy of regularization issued by the Govt. of Haryana prior to 01.01.2006, however their services were regularize after 01.01.2006, either under the policy decision dated 29.07.2011 or 18.06.2014 and governed under the NPS for release of the retiral benefits but those petitioners claimed that, once their daily wage service is being counted to count the length of service for pensionary benefits then they be considered eligible to get pension under Old Pension Scheme even if at the time of their regularization of service after 01.01.2006 under the applicable NPS. After the regularization of their services by counting their part timer Sweeper, Water carrier services. Daily Wager/ contractual employees, after 01.01.2006 they were ordered to be governed under NPS/New Pension Scheme applicable to the regular Government Employees substantively appointed on or after 01.01.2006 as per their terms and conditions of their appointment letters/regularization order(s). After their regularization of services they were allotted the Permanent Retirement Account Numbers (PRAN) under NPS, have contributed their proportionate share as per the scheme of NPS, in some of the cases the employees whose services (regularized) after 01.01.2006, they also attained the age of superannuation and retired from service after availing the benefits available under the NPS, and withdrew their retiral benefits. But now they have filed the present writ petition(s) claiming that their part time/daily

wage/contractual service if counted to count the length of service for pensionary benefits, their such service prior to 01.01.2006 they are entitled to benefit of Old Pension Scheme taking into consideration earlier period on part time/daily wage/contractual service, hence entitled to the benefits under the *Punjab Civil Service Rules Vol-II as applicable to the State of Haryana*, to get the benefit of Old Pension Scheme, instead of NPS.

2. In some of the case(s) either of the part time/daily wages etc. the department(s) specifically passed the speaking order(s) and rejected their claim denying the benefit of Old Pension Scheme by taking the plea that they were substantively appointed to the regular service after 01.01.2006. therefore, they would be covered under the NPS and not to be governed under the *Punjab Civil Service Rules Vol-II* to get pension. These petitioners initiated the fresh litigation based on the basis of the decision dated 26.07.2024 in *LPA No. 1892 of 2019, titled as 'State of Haryana v. Jai Bhagwan' and Harbans Lal vs. The State of Punjab and others 2010 SCC Online P&H 8181* and the decision dated 18.03.2016 in *LPA No. 426-2016 titled as State of Haryana Vs. Zile Singh*. It has also been pointed out that the Special Leave Petition against the judgment in *Jai Bhagwan (supra)* case has been dismissed by the Hon'ble Supreme Court vide order dated 20.09.2024 (SLP (C) No(s). 21427-21435/2024, even in Harbans Lal's case SLP filed by the State of Punjab had been dismissed, but the question of law kept opened to be adjudicated in appropriate proceedings.

3. The Claim of the petitioner(s) contested by the department(s) by filing the written statement(s) wherever the department(s) has filed the written statement. Even in the written statement in CWP No. 20263-2024 it was specifically mentioned that in the earlier litigation relevant *Rule 3.1.1 (g) (iii) of the Punjab Civil Service Rules Vol-II as applicable to the State of Haryana*, was not considered either in the case of *Kewar Chand v. State of Punjab 1988 SCC Online P&H 338*, or in *Harbans Lal's case* as has been relied upon in the order dated 26.07.2024, as relied upon by the petitioners. therefore, the earlier decisions are not judicially binding, being per

incuriam decision(s), as the question of counting of part time service for pension was never ever examined, hence such decisions cannot be treated as a valid judicial precedent, even though the Hon'ble Supreme Court dismissed SLP(c) No. 21427-21435/2024 against the order dated 26.07.2024 in LPA NO. 1892-2019, when the question of law kept open to be decided in some other cases. Moreover, even if daily wage/contract period is counted even if the employees were regularized in service after 01.01.2006, then such length of service is to be counted only for the purpose of gratuity payment and length of service for pension under NPS is immaterial.

4. That apart from above it was also mentioned during the course of hearing that the decision in Kesar Chand and Harbans Lal's case has already been distinguished by the Ld. Single Judge on 31.01.2017 in *CWP No. 13153-2015 titled as Mukhtyari Devi v. State of Haryana and others*, therein the Ld. Single Judge has duly considered the judgment of *Kesar Chand v. State of Punjab* of full Bench of this Hon'ble Court, and *Rule 3.17A (g) (iii) of the Punjab Civil Service Rules Vol-II, as applicable to the State of Haryana*, has been rightly considered and interpreted, holding that part time service can't be counted for pension to count the length of service. Similar *peri materia* Rule 14(5)(iii) exist in HCS (Pension) Rule's 2016 which was made applicable w.e.f. 19.07.2016 by repealing of the Old Punjab Civil Service Rules Vol-II as per Rule 7 of HCS (Pension) Rules 2016 as applicable to the State of Haryana.

5. Apart from the above, it was also pleaded that the Govt. of Haryana has already vide notification dated 28.10.2005 (Annexure P-6) amended the Rule 1.2 of Punjab Civil Services Rules Volume-II, as applicable to the state of Haryana, in which it was mentioned that the *Punjab Civil Services Rules, Volume-II, as applicable to the State of Haryana*, stood amended, hence such Rules would not be applicable to the employees who substantively appointed to the Government Service on or after 01.01.2006 and such employees would be covered under the New Defined Contributory Pension Scheme which was to be notified. It was also argued that the above said notification dated 28.10.2005 has already been upheld by the Hon'ble

Division Bench decision dated 19.05.2022 in CWP No. 10102 of 2022, the Ld. Single Judge, and also similar CWP(s) dismissed and such order(s) has been upheld in LPA No. 839-2026.

6. Therefore, it was also argued that the petitioner(s) part timer employees are not holding any "civil post" as such question duly adjudicated by the Hon'ble Single Judge on 13.11.2025 in CWP No. 12969 of 2016_titled as Balwan Singh Vs. State of Haryana and ors. holding the part timer employees are not holding the "civil post" and only works for the part of the day and thereafter they did not remain under the control of the Government Department Employer, hence, they are not entitled to the claimed relief, hence it was pleaded that their writ petition(s) of the part timer is required to be dismissed. As far as daily wager/contractual employees their length of service prior to 01.01.2006 if any has already counted for grant of benefit of gratuity available under NPS, therefore, even the daily wager/contractual employees are not entitled to switen over from NPS to OPS.

7. Another segment of litigation which has been tagged with the present clutch of writ petition(s) that some of the writ petition(s) filed by those employees who were directly recruited by HSSC/HPSC in pursuant to the advertisement issued after 01.01.2006 and they were directly recruited as fresh recruits in the year 2008 and 2009, staked their claim on the basis of office memorandum dated 08.05.2023 mentioning that they are also entitled to benefit of office memorandum dated 08.05.2023 (Annexure P 12) to extend the benefit of Old Pension Scheme, as they have not been selected in pursuance to the first advertisement issued prior to 28.10.2005 and those recruitments were not finalized and such posts were again re-advertised after 01.01.2006, therefore, they are entitled to the benefit of office memorandum dated 08.05.2023. The claim of the petitioners of such bunch has also been contested by the department(s) by filing the written statement mentioning the fact that the notification dated 28.10.2005 vide which *Punjab Civil Services Rules Vol-II as applicable to the State of Haryana* a relevant Rule 1.2 of Punjab Civil Services Rules Vol-II was amended and it was specifically mentioned that the employees substantively appointed to the

Government service on or after 01.01.2006 provisions of *Punjab Civil Service Rules Vol-II* as applicable to the State of Haryana were not applicable such appointments will be governed under the New Pension Scheme.

8. It was also pleaded in the written statement filed in such cases that they cannot take the advantage of office memorandum dated 08.05.2023 qua the earlier post(s) advertised for adhoc stop gap arrangement as selection process was to be carried out alone by the Department Selections Committees, not through the regular recruitment agency HSSC/HPSC, such advertisement purely based on the Departmental Selection Committee process, on account of pending rationalization of the requirement teachers in the department of education and the requirement of the teachers student ratio, even such selection process was not carried out, even if the post(s) were re-advertisement after 01.01.2006 selected candidates in pursuance to the advertisement issued after 01.01.2006 they are not entitled to benefit of office memorandum, in view of the fact that they are also governed under the NPS, and they never challenged the terms and conditions of their appointment(s) and such Rule of NPS, and the cut off date has already been upheld by the Hon'ble Division Bench upholding the decision rendered by the Ld. Single Judge in CWP No. 15498 of 2025, titled as Sandeep Singh and ors Vs State of Haryana and Ors. decided on 22.12.2025, against which Ld. No. 839 of 2026 also stands dismissed on 27.03.2026.

9. That the respondent(s) overall pleaded that the petitioners are not entitled to claimed relief(s), and the writ petition(s) are required to be dismissed on merits as well as on preliminary submissions.

10. That the Hon'ble Judge decided the present writ petition(s) and allowed on 09.07.2026 alongwith bunch of writ petition(s) of two different categories.

11. That the order dated 09.07.2026 is not legally sustainable, and is liable to be set aside inter alia amongst the following grounds:-

a) That the decision in Harbans Lal, as well as Jal Bhagwan, Zile Singh as relied upon by Hon'ble Single Judge to allow the 1st category of cases is not applicable and such decision are distinguishable on facts as well as law. In Harbans Lal's case, the

employees appointed on daily wage basis after 01.01.2004 and the New Pension System was made applicable by the Government of Punjab by issuance of the notification in the year 2008/09 though made applicable retrospectively w.e.f. 01.01.2004, but in the meantime, the department opened their GPF accounts with the office of Accountant General, Punjab, while working on daily wage basis. After the regularization of their services being recruited after 01.01.2004, the department initiated the process to close their GPF accounts and to open the NPS accounts and such action of the officials of the Government of Punjab was challenged by Harbans Lal and ors. No such similarity of facts exist in any of the present writ petition(s), therefore, the above said judgment in Harbans Lal's case is not applicable in the present cases of part time employees or even qua daily/contract employees as in none on the cases either of daily wagger/part timer contractual employee(s) GPF account were never opened. Even if the decision of Hon'ble High Court in Harbans Lal's case upheld by the Hon'ble Supreme Court of India, hence, the decision in Harbans Lal's case is being wrongly applied qua the present petitioner(s), and even in such relied decision in Harbans Lal, i.e. of Hans Raj and Kesar Chand's cases there was no dispute qua part time service, which was neither in controversy nor ever adjudicated to be counted for the pension purposes, involving interpretation of Rule 3.17A(g)(iii) as applicable to the State of Punjab as well as State of Haryana, are reproduced as below to see the dissimilarity.

Comparison Table: Rule 3.17 (Punjab CSR, Vol. II)

Rule 3.17 in Punjab	Rule 3.17 as Applicable in Haryana
3.17. If an employee was holding substantively a permanent post on the date of his retirement, his temporary or officiating service under the State Government, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of: - (i) periods of temporary or officiating service in non-pensionable establishment; (ii) Omitted. (iii) Omitted. Note 1.-In case of a Central Government employee who is permanently transferred	3.17 In the case of an officer retiring on or after 5th January, 1961, if he was holding substantively a permanent post on the date of his retirement, his temporary or officiating service under the State Government, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of:- (i) Period of temporary or officiating service in non-pensionable establishment; (ii) Deleted. (iii) period of service paid from contingencies. Note 1. In the case of a Central Government employee who is permanently transferred to Haryana Government and becomes subject to these rules under rule 1.1 (b) of these rules, the

to the Punjab Government and becomes subject to these rules, under rule 1.1 (b) of these rules, the term "continuous temporary/officiating service" shall include such service rendered under Central Government.

Note 2.-In case of a purely temporary Central Government employee who is permanently transferred to Punjab Government and becomes subject to these rules, the term "continuous temporary service" includes the temporary service under the Central Government. The pensionary liability in respect of such cases shall be allocated on the length of service.

Note 3.-The entire service rendered by an employee as work-charged as also the service paid from contingencies, shall count as qualifying service:

Provided that-

- (i) such service is followed by regular employment;
- (ii) there is no interruption in the two or more spells of service, or the interruptions are condonable under rule 4.23; and(iii) such service must be a full-time job.

Note 4. The entire adhoc service rendered by a Government employee may be counted as qualifying service:

Provided that-

- (i) such service is followed by regular employment;
- (ii) there is no interruption in the two or more spells of adhoc service, and adhoc and regular service, or the interruptions are condonable under rule 4.23;
- (iii) such service must be a full-time job;
- (iv) recruitment to such service should have been made through the Employment Exchange or by open advertisement;
- (v) the service rendered as adhoc employee must have been against a regular post or vacancy; and
- (vi) the conditions for eligibility, like academic qualifications, experience and age, at the time of adhoc appointment, should have been fulfilled.

3.17-A. (1) Subject to 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) Omitted.

terms "continuous temporary service or continuous officiating service", shall include such service rendered under Central Government.

Note 2.- In case of a purely temporary Central Government employee who is permanently transferred to Haryana Government and becomes subject to these rules, the term "continuous temporary service" includes the temporary service under the Central Government. The pensionary liability in respect of such cases shall be allocated on the length of service.

Note 3.- (a) In respect of temporary employees of the following categories who render service under the Central/State Governments prior to securing posts under the Central/State Governments on their own violation in response to advertisements or circulars, including those by Union/State Public Service Commission and who are eventually confirmed in their new posts, the proportionate pensionary liability in respect of temporary service rendered under the Central/State Governments to the extent such service would have qualified for grant of pension under the rules of the respective Government, will be shared by the concerned Governments on a service share basis:-

(1) Those who having been retrenched from the service of Central/ State Governments secured on their own employment under State/Central Government either with or without interruption between the date of retrenchments and date of new appointment.

(2) Those who while holding temporary posts under Central/ State Governments apply for posts under State/Central Government through proper channel/with proper permission of the administrative authority concerned.

Explanation.- Where an employee in category (2) is required for administrative reasons for satisfying technical requirement, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons and/or to satisfy a technical requirement, to join, with proper permission, the new posts, may be issued by the authority accepting the resignation. A record of this certificate may also be made in his service book under proper attestation to enable him to get this benefit at the time of retirement.

The gratuity, if any, received by the Government employee for temporary service under the Central/State Governments will, however, have to be refunded by him to the Government concerned.

(b) Those employees who while holding temporary posts under Central/State Governments apply for post under Central/

(ii) Omitted. (iii) Casual or daily rated service. (iv) Suspension adjudged as a specific penalty. Note.-In cases where an officer dies or is permitted to retire while under suspension will not be treated as an interruption. (v) Service preceding resignation except where such resignation is allowed to be withdrawn in public interest by the appointing authority as provided in the relevant rules or where such resignation has been submitted to take up, with proper permission, another appointment whether temporary or permanent under the Government where service qualifies for pension. (vi) Joining time for which no allowances are admissible under rules 9.1 and 9.15 of C.S.R., Volume I, Part I. (vii) If any unauthorised leave of absence occurs in continuation of authorized leave of absence and if the post of the absentee has been substantively filled up, the past service of the absentee is forfeited. (viii) Transfer to a non-qualifying service in an establishment not under Government control or if such transfer is not made by the competent authority and transfer to service in a grant-in-aid school. (A Government employee, who voluntarily resigns qualifying service, cannot claim the benefit under this clause.) (ix) Removal from public service for misconduct, insolvency, inefficiency not due to age, or failure to pass an examination will entail forfeiture of the past service. (x) Service rendered beyond the date of retirement on superannuation in terms of rule 3.26 of Punjab Civil Services Rules, Volume I, Part I. (2) An interruption in the service of a Government employee caused by willful absence from duty or unauthorised absence without leave, shall entail forfeiture of the past service. (3) Willful abstinence from performing duties by a Government employee by resort to pen down strike shall be deemed to be willful absence from duty and shall also entail forfeiture of the past service. Note. In the case of a Central Government employee who is permanently transferred to the Punjab Government and becomes subject to these rules, the pensionary benefits admissible for service under Central Government would be that admissible under the Government of India rules and the liability for such benefits shall be allocated in accordance with the prevalent orders.	State Governments direct without permission and resign their previous post to join the new appointment under the Central/State Governments will not be entitled to count their previous service for pension. 3.17-A. (a) All service interrupted or continuous followed by confirmation shall be treated as qualifying service; the period of break shall be omitted while working out aggregate service. (b) Extraordinary leave counted towards increments under rule 4.9 (b) (ii) of Punjab Civil Services Rules, Volume-I, Part-I, will be accounted towards service qualifying for pension. (c) Periods of suspension, dismissal; removal, compulsory retirement followed by re-instatement will count for pension to the extent permissible under rule 4.17 of Punjab Civil Services Rules Volume-II read with rule 7.3 of the Punjab Civil Services Rules, Volume-I, Part-I. (d) Resignation from the public service or dismissal or removal from it for misconduct, insolvency, inefficiency, not due to age, or failure to pass a prescribed examination will entail forfeiture of past service in terms of rule 4.19 (a) of Punjab Civil Service Rules Volume-II. (e) An interruption in the service of a Government employee caused by willful absence from duty and unauthorized absence without leave will as hitherto entail forfeiture of past service. [Explanation.- The willful refusal to perform duties by a Government employee by any means including pen down strike shall be deemed to be willful absence from duty.] (f) Employees retiring from Government service without confirmation (as temporary employees) in any post on or after 5 February, 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 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 [full period] of service of such persons paid from contingencies 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 for a portion of day, (a) Service paid from contingencies should have been in a job involving whole
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Clarification (1).-Even after the introduction of rule 3.17(A) and deletion of rule 4.21 the following cases do not entail forfeiture of past service:- (a) authorised leave of absence; (b) abolition of post or loss of appointment owing to reduction in establishment. ("Post" or "appointment" means a post or appointment service in which qualifies for pension). (2) While counting such qualifying service for working out aggregate service, the period of break in service shall be omitted.	time employment and not part time for 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 e.g. 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 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. Note. While bringing contingent paid employee to the regular establishment an entry for verification of contingent service should be made at the appropriate place in his service book, preferably before making any entry regarding his regular service in the following manner:- "Service from to paid out of contingencies verified from acquaintance rolls and office copies of contingent bills". This entry should be signed by the Head of Office with date. (ii) Deleted. (iii) Casual Labour; (iv) Contract Officer; and (v) Persons born on Contributory Provident Fund Establishment. (g) The entire service rendered by an employee as work charged shall be reckoned towards retirement benefits provided- (i) such service is followed by regular employment; (ii) there is no interruption in the two or more spells of service or the interruptions fall within condonable limits; and (iii) such service is a whole time employment and not part-time or portion of day.
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b) That even in Kesar Chand's case also though the work charge service followed by regularizations of the services has been ordered to be considered to be counted to count the length of service for pension purpose, only *Rule 3.17(ii) of PCS Rules Vol. II* was struck down, and the Hon'ble Full Bench held that once the services of the work charge employees regularized, therefore, the entire period of work charge service followed by regular service is required to be counted to count the length of service for pension as well as for gratuity purposes, but the question of part time service and regularizations service after 01.01.2006 and the applicability on NPS/OPS was never

ever either involved nor ever adjudicated in the Kesar Chand's case. Hence in Kesar Chand's case no question of interpretation of part time service, involved.

In the present case(s), pertaining to part time employees the relevant *Rule 3.17A(g) (iii) of PCS Rules Vol. II* as applicable to the State of Haryana as reproduced herein before which is being relied upon by the respondents-department had not been considered at all either in the case of Hans Raj, as well as in Harbans Lal's case, or in Kesar Chand's case and the decision in Jai Bhagwan's case is based solely on the decisions mentioned hereinbefore, as only part of the *Rule 3.17(ii) of Punjab Civil Services Rules Volume II* has been considered, whereas the applicable and the relied rule by the respondents in the written statement it was clearly mentioned that the relevant *Rule 3.17A(g) (iii) of Punjab Civil Services Rules Volume II* as applicable to the State of Haryana was not earlier considered at all in Kesar Chand's and other relied decisions in Jai Bhagwan's case as well as in LPA No. 426 of 2016 titled as State of Haryana Vs. Zile Singh decided on 18.03.2016, against which RA-LP-30-2022 filed with was dismissed on 29.10.2022 on account of dismissal of CM of condonation of delay, but in all the earlier decision only, work charge daily wage service considered and ordered to be counted after Rule 3.17 (ii) was struck down, but rule 3.17A(g)(iii) qua part time service which never ever either was in controversy or adjudicated, or never ever struck down hence, such question as now raised by the respondent distinguishing the earlier decision, is required to be considered and adjudicated afresh, the earlier decision(s), which prescribes that even if the daily wage period is ordered to be counted for, to count the length of service for the purpose of pensionary benefits then it is only the whole time service as a government employee and not of service for the part of the day for which a part time employee paid wages from the contingent fund and part timer was free to work elsewhere also for rest of the tenure of the day and such part time employee not holding a "Civil Post". Even after introductions of NPS even the adhoc/daily wage services can be counted only for the purpose of grant of granting and length of service has nothing to do under NPS. Punjab Civil Services Rules Volume II as applicable to State of Haryana. Relevant Rules 3.17A (g) (iii),

deny, such calculation as such part time employees are not holding any civil post as already been reproduced in the written statement in CWP 20263 of 2024 and also hereinbefore. Therefore, the earlier judgment in Harbans Lal's case and Hans Raj's as well as in Jai Bhagwan's and Kesar Chand's, Zile Singh case are not applicable to the present bunch, being, distinguishable as per the facts and applicable rule as stated above, and the dismissed of SLP in Jai Bhagwan's case is not a ground not to re-examine the matter as the Hon'ble Supreme Court of India itself has kept the question of law open to be decided in appropriated cases.

(C) Recently, Hon'ble Full Bench of this Hon'ble Court in CWP No. 2465 of 2017 titled Gurdev and others Vs. State of Haryana and others, 2026 NCPHHC 23921 para 22-28 and 30-31 held that a great caution is required to be taken, while relying upon the earlier decision, as a little change of facts and law would make a big difference and would change the earlier precedent. Even this very Bench while passing the present impugned qua category No. 1 while deciding CWP No. 12969 of 2016 titled Balwan Singh Vs. State of Haryana, on 13.11.2025, held that part time employees are not holding any "civil post" hence not entitled to the regularization. Therefore the decision dated 31.01.2017 in CWP No. 13153 of 2015, has been erroneously ignored, as per findings in para 26 of the impugned order. As even the decision in CWP No 7409 of 2021 titled as Virender Singh Vs. State of Haryana suffers from the same vice as pointed herein before merely relying upon earlier discussed cases and relevant Rule 3.17(A)(g)(iii) was also not considered

d) Recently, also the Hon'ble Supreme Court while deciding the Civil Appeal No. 7938 of 2026 titled as New India Assurance Company Limited Vs. Dolly Satish Gandhi and another, reported as 2026 INSC 498, in para 12, 13 and 14 held that once the Hon'ble Court finds that there are divergent views either of the same strength of Judges of the same Court or different Co-ordinate Benches of the different Courts, then it is the pious duty of the Member of the Bar as well as of the Bench, to avoid the inconsistency and judicial impropriety, to re-look the different decisions and to decide the questions of law as differently interpreted on the same question of law and

applicable facts. Taking into consideration the above said findings of the Hon'ble Supreme Court the present controversy involved in these matters is required to be adjudicated afresh in view of the fact that in all the earlier judgments, relevant Rules 3.17 A (g) (iii) has not been considered, keeping in view the fact that similarly the amendment to Rule 1.2 of the Punch Civil Services Rules Volume 2 as applicable to State of Haryana, was duly amended by the Government of Haryana on 28.10.2005 considering the applicability of the NPS to Government employees who were substantively appointed to government service recruited on or after 01.01.2006 and the validity of this Rule has already been upheld by this Hon'ble Court in CWP No. 10102 of 2022 decided on 19.05.2022. It is also repeatedly held by the Hon'ble Supreme Court that rectification of mistake is an act of heroism, instead of granting parity under the guise of Article 14 of the Constitution of India under the nose of Judicial order.

e) That even otherwise also, after the dismissal of the SLP(s)(C) in the Hon'ble Supreme Court in Jai Bhagwan's case, on 20.09.2024, once the Hon'ble Supreme Court has kept the "question of law opened" to be adjudicated in appropriate case, meaning thereby the dismissal of SLP does not tantamount to ipso facto approval of the decision of Hon'ble High Court in LPA No. 1892 of 2019 and only leave to appeal has been declined such decision at the best can be considered binding inter se parties and cannot be considered as a res judicata for rem, and can be res-judicata in personam. Once the Hon'ble Supreme Court has kept the question of law opened, therefore, this this Court is not precluded to reconsider the contentions raised by the respondents in the bulk of cases when in Kesar hand Harbans Lal and other relied judgments no such legal question raised and adjudicated. While relying on the decision in Jai Bhagwan's case, after the dismissal of the SLP, Ld. Single Judge allowed CWP No. 3867 of 2024 decided on 20.04.2024, has passed different order(s) allowing different writ petitions based on the decision in Jai Bhagwan's case. Thereafter LPA(s) has been filed i.e. LPA No. 2357 of 2024; LPA No. 568 of 2025 and other LPAs in which the Hon'ble Division Bench while passing the interim orders in CM-7663-LPA-2024 in LPA 2357-2024, passed the detailed order on 11.12.2024 and stayed the

operation(s) of the order(s) passed by Ld. Single Judge and the similar interim orders was passed on 6.3.2025 in LPA No. 568 of 2025. These LPAs are still pending for final adjudication and the order passed by Hon'ble Single Judge, also pertain to part time service. Inspite of the dismissal of the SLP in Jai Bhagwan and connected matters, Hon'ble Division Bench prima facie dealt with the question, which was not considered in the earlier decided cases as relied by the present petitioner(s). Thus the question of law is required to be adjudicated afresh as per the submissions made hereinbefore

f) That similarly LPA No. 666 of 2022 titled Municipal Council QADIAN Vs MUSTHAQ MASIH AND ORS. was also decided by the Hon'ble Division Bench of this Hon'ble Court on the basis of the decision in Harbans Lal's case on 21.12.2023, and the Hon'ble Supreme Court thereafter entertained the SLP(s)(C) filed by the different Municipal Council, and the Hon'ble Supreme Court entertained the SLP(C) Diary No.21449 of 2024 titled Nagar Panchayat Sahnewal Vs. Manpreet Singh and others and on 14.08.2024 stayed the operation of the order dated 21.12.2023 passed by Hon'ble Division Bench of this Hon'ble Court. The bunch of SLP(s)(C) against the bunch of LPA(s) decided on 21.12.2023, as batch of LPA(s) decided alongwith LPA No. 666 of 2022 are still pending for final adjudication in the Hon'ble Supreme Court. Hon'ble Supreme Court is well aware about the dismissal of SLP(s) in the earlier decision in Harbans Lal's Case duly noted in the decision dated 21.12.2023, in Jai Bhagwan's case as well as in Kesar Chand and Zile Singh Case but still entertained subsequent SLP(s)(C). Same view taken by the Hon'ble Supreme Court of India in AIR 1995 SC, 1991 relevant para 3-5 and 14-15. Taking into consideration that the State Government is not precluded to re-agitate the matter even if the earlier decision stood implemented and the questions of law kept opened.

g) That as far as reliance by the petitioner on the subsequent memo issued on 08.05.2023 giving option to the employees who applied in pursuance to an advertisement issued in the year 2005 but those selections were not finalized and the post(s) were re-advertised after 01.01.2006, but prior to 18.8.2008 when NPS

notification issued and the selected candidates who joined the Government Service on or after 01.01.2006, as a onetime measure option to switch over from NPS to OPS fixation of cut of date & promulgation of notification of NPS dated 18.08.2008 especially para 5(I) of the OM dated 8.5.2023. Interim order issuing Notice of Motion dated 21.01.2025 in CWP No. 1507 of 2025 is also relevant same is reproduced as below:-

"It is inter alia contended that there is no justification for incorporating 28.10.2005 as the cut-off date in the impugned office memorandum, requiring the employees to have been appointed in response to advertisement issued prior thereto to be entitled to benefits under the Old Pension Scheme (OPS). The New Pension Scheme (NPS) was notified by the State Government vide notification dated 18.08.2008, Annexure P-6. Therefore, the cut-off date for employees to claim benefits under the OPS should be 18.08.2008, and not any date prior thereto.

Notice of motion for 05.03.2025."

January 21, 2025

Sd/-
JUDGE"

This CWP No.1507 of 2025 stood dismissed on 01.04.2026 alongwith batch of CWP(s) of 27 cases.

In this respect, as far as claim of category-II it is submitted that their claim is also not legally tenable as similar 8 CWP(s) has already been dismissed by the Hon'ble Single Bench alongwith CWP No. 36834 of 2025, on 22.12.2025 and thereafter LPA No. 839 of 2026 has also been dismissed on 27.03.2026. Thus the directions issued in the impugned order though the matter remitted to the government, but simultaneously mandatorily issued the direction to extend the benefits of office memorandum 08.05.2023, is not legally sustainable.

h) Apart from the above, the similar writ petition(s) claiming same relief as now claimed by other employees except part time employees has already been dismissed 27 CWP (s) by the Coordinate Bench alongwith CWP(s) 1507 of 2025 on 01.04.2026.

i) Still further 113 CWP(s) got disposed of on 14.05.2026 alongwith CWP NO.2003 of 2024 by getting the matter remanded, as *ad idem* of the parties for re-consideration of their claims by the Government Departments. A peculiar feature of all these orders mentioned herein above, is that majority of the Counsels who argues the present case(s) are the same who appeared in the above stated decided cases. Thus the directions to mandatorily directing the respondents to extend the benefits is not legally sustainable.

j) That even otherwise also as per the memo dated 08.05.2023 issued by the State of Haryana, the such option is available, to only such candidates who actually applied in pursuance to the advertisement issued on 28.10.2005, and those who applied in pursuance to the advertisement issued after 01.01.2006, but the main rider is that they are required to prove the fact that they in fact actually applied for the posts advertised in the year 2005/28.10.2005 and they are required to produce the treasury challan to show that they actually eligible and applied in pursuance to the earlier advertisement issued in the year 2005, by way of direct recruitment by HSSC or was only an adhoc arrangement by the department selection committee and not to the candidates who merely alleging that he applied in pursuance to the adhoc/temporary advertisement issued in the year 2005, but the selection was not finalized and thereafter he was selected after 01.01.2006. This option in para 5(i) and cut of date fixed is conditional one. None of the petitioner (s) annexed any documentary proof of deposit of fee receipt of the Treasury receipt. Those who were having such proof and exercised the option within the stipulated period, were already extended the benefits by the departments. Rest of the contentions raised by the petitioner(s) about the fixation of cut of dates has already been decided against the petitioners in the litigation mentioned in the preceding para.

k) That even otherwise also the rest of petitioner(s) of the different petition(s) claiming conversion from NPS to OPS, such petitioners has not challenged their condition(s) prescribed in their appointment letter(s) when their service were regularized after 1.1.2026, and it was specifically mentioned in the respective order(s)

of regularization of their service, that their service conditions will be governed by the NPS, and, they accepted such conditions, opened their PRAN accounts (Permanent Retirement Account Number(s) under NPS. Therefore, once they have not challenged the terms and conditions of their appointment letter(s), now they are legally estopped to raise such claim such contentions duly raised in the written statement has not been considered in the impugned order. Same view has been taken by the Hon'ble Madras High Court in the reported case 2020 (3) SCT 320. Same view taken by the Hon'ble Supreme Court in India 2023 SCC Online SC 197 and 2019(2) SCT 146. Even some of the petitioners retired from service got the benefit accrued under NPS, but now filling the present writ petition(s). which are not maintainable on the principle of estoppel and also suffers from delay and laches. hence, not legally entitled to such claims. Hon'ble SC also recently held that the claim to pension and family pension only if case falls within the frame work of the pension rules and not otherwise (2022) SCC Online SC 669. Even the Hon'ble Division Bench of this Hon'ble Court distinguished the Harbans Lal's case in Law Finder I.D. 112925 titled Home Secretary Chandigarh Administration Vs. CAT and ors.

1) Dismissal of SLP in limni does not tantamount to approval of the decisions of Hon'ble High Court. (AIR 1995 SC 1991 para (3-5 & 14-15). Even non filing of appeal in some case(s) does not debar the State to reagitate the matter and the Court can't be precluded to deal with the matter afresh, and the State Government is not precluded to re-agitate the matter.

As per the law laid down by the Constitutional Bench of Hon'ble Supreme Court of India even if the earlier litigations closed and finalized up to the Hon'ble Supreme Court and some decisions implemented, or the appeal not preferred by the State then the State Government, is not precluded to re-agitate the matter, (1963) Suppl. 2 SCR 169 State of Punjab Vs. Joginder Singh (Para 8-10). Same view was taken by the Hon'ble Supreme Court of India in CA No. 6026-28/2021 decided on 28.09.2021 titled Malook Singh & others Vs. State of Punjab and others. (Para 21-22)

m) That the Rule 1.2 PCS Rules Vol. II as applicable to the State of Haryana was amended on 28.10.2005, challenge to cut of date applicability of NPS and non applicability of PCS Rules Vol. II to the employees permanently appointed was also upheld in CWP No. 10102/2022 titled Ranjeet Singh & others Vs. State of Haryana. same was dismissed on 19.05.2022.

n) That the findings of para 34 of the impugned order is also not legally sustainable as in the decision of the Hon'ble Delhi High Court recruitment process was started prior to 01.01.2004 and the majority of the selected candidates joined the service prior to 01.01.2004, but a few selected candidates was not found medically fit for first entry into service. such candidates prayed for constitution of medical boards. who in turn declared such candidates medically fit which resulted in delayed their joining after 01.01.2004. Thus batch-mates of the same selection were granted parity on account of late joining of part of the selected candidates who joined prior to 01.01.2004. No such circumstances existed in the present clutch of the petitions pertaining to category decided together, therefore, reliance on the decision of the Hon'ble Delhi High Court is misplaced resulted in miscarriage of the justice.

Hence, these cases are fit cases for filing LPA(s).

Ld. A. G., Haryana

*Forom
Mauhar
11/8/26*


(R.D. Sharma) 3/8/26
Deputy Advocate General, Haryana
03.08.2026

P. S. Saini
4/8/26