



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

- 1) CWP-4949-2016  
Mahipal and others ....Petitioners  
Versus  
State of Haryana and others ...Respondents
- 2) CWP-6693-2016  
Kashmira Singh ....Petitioner  
Versus  
State of Haryana and others ...Respondents
- 3) CWP-6824-2016 (O&M)  
Amar Singh and others ....Petitioners  
Versus  
H.V.P.N. and others ...Respondents
- 4) CWP-7218-2016  
Chakarvarti Garg ....Petitioner  
Versus  
DHBVN and others ...Respondents
- 5) CWP-18882-2016 (O&M)  
Ram Niwas Garg ....Petitioner  
Versus  
Uttar Haryana Bijli Vitran Nigam and others ...Respondents



6) CWP-19417-2016  
Harbans Lal Luthra and others ....Petitioners

Versus

Haryana Power Generating Corporation Ltd and others ...Respondents

7) CWP-27126-2016  
Rajender Singh Dalal and another ....Petitioners

Versus

Haryana Power Generation Corporation Limited and others ...Respondents

8) CWP-2470-2017  
Satish Kumar and others ....Petitioners

Versus

Board of School Education, Bhiwani ...Respondent

9) CWP-37165-2019  
Satyavir Singh ....Petitioner

Versus

Haryana State Agriculture Marketing Board and another ...Respondents

Reserved on: 13.05.2026  
Pronounced on: 26.05.2026  
Uploaded on: 26.05.2026

*Whether only the operative part of the judgment is pronounced?* No  
*Whether full judgment is pronounced?* Yes

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. S.K. Hooda, Advocate  
for the petitioner(s) in CWP-37165 of 2019 & 27126 of 2016.



Mr. Raman B. Garg with Mr. Mayank Garg, Ms. Komal Parveen Singh and Mr. Ajay Sharma, Advocates for the petitioners in all cases except CWP-37165 of 2019 & 27126 of 2016.

Mr. Piyush Khanna, Addl. AG Haryana.

Mr. Baldev Raj Mahajan, Sr. Advocate with Ms. Nikita Goel and Mr. Mohit Kumar Sharma, Advocates for respondents No.2 and 3 in CWP-4949-2016 and CWP-6693-2016.

Mr. Baldev Raj Mahajan, Sr. Advocate with Mr. Padamkant Dwivedi, Advocate with Ms. Ayushi, Advocate for respondent-HV PNL in CWP-6824-2016.

Mr. Baldev Raj Mahajan, Sr. Advocate with Shri Prateek Mahajan, Advocate with Ms. Nikita Goel and Mr. Mohit Kumar Sharma, Advocates for the respondents in CWP-7218, 18882, 19417, 27126 of 2016 and CWP-37165 of 2019.

Mr. Pritam Singh Saini, Advocate for respondent No.3 in CWP-18882-2016, for respondent No.2 in CWP-7218-2016, for respondent-HSIMTC in CWP-27126-2016 & 2470-2017.

Mr. Harneet Singh Oberoi, Advocate for respondent No.5 in CWP-4949-2025.

**HARPREET SINGH BRAR, J.**

1. With the consent of all the parties, all the aforementioned writ petitions are taken up together and are being decided by this common judgment. However, for the sake of brevity, the facts are taken from **CWP-4949-2016**.

2. The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to release all the retiral benefits, including pension, to the petitioners, by counting their past service rendered with Haryana State Minor Irrigation and Tubewells Corporation Ltd. (for short 'HSMITC') along with interest @18% per annum, in terms of the judgment dated 14.01.2016 (Annexure P-3) passed by this Court in **CWP-3792-2012** titled as '*Suresh Chand and others Vs. State of Haryana and others*,' which has been further



upheld by the Division Bench of this Court in **LPA No. 1805 of 2016**, titled as '*Haryana State Agriculture Marketing Board and Anr. vs. Prem Parkash Gupta and Ors.*'

3. Learned counsel for the petitioner(s) *inter alia* contended that the petitioners were initially appointed in HSMITC, which was wound up and closed and services of its employees were retrenched in the month of July 2002. On 18.05.2001, the Government of Haryana issued instructions bearing No.23/5/2001-2G.S.III regarding surplus and retrenched employees of State Public Sector and Cooperative Sector Undertakings by reserving 25% future vacancies in direct recruitment in Group C & D in Government Departments, the State Public Sector and Cooperative Sector Undertakings. Further, the provision of reservation for retrenched employees was ordered to remain operative for a period of five years from the date of issuance of the policy. The copy of these instructions dated 18.05.2001, produced by learned counsel in the Court, is taken on record as Mark 'X'. Registry is directed to tag the same at the appropriate place of the case file. Accordingly, the petitioners were appointed in the year 2004 with respondent No.2-Haryana State Agricultural Marketing Board (for short 'HSAMB') through proper channel.

4. It was submitted that the State of Haryana issued policy instructions vide office memorandum dated 07.01.2002 (Annexure P-1) and thereby provided an opportunity to all the employees to count their previous service rendered with the Board/Corporations/State Government Undertakings in their present department for the purpose of pension. Consequently, the petitioners submitted several representations to the respondents seeking counting of their past service rendered in HSMITC for the purposes of pension



and other retiral benefits; however, no relief was granted to them.

5. Learned counsel argued that identically circumstanced retrenched employees, who were re-employed in respondent No.2-Board, had approached this Court by way of filing *CWP-3792-2012* and *CWP-10017-2014* seeking the benefit of past service rendered by them in HSMITC. Both these petitions were decided in favour of the retrenched re-employed employees of respondent No.2-Board and were upheld upto the Hon'ble Supreme Court. In order to demonstrate that the petitioners are identically situated to the petitioners in *Suresh Chand's case (supra)*, learned counsel has referred to Annexures P-10 to P-12, comprising the paper books of CWP-3792-2012, LPA-1806-2016, and the Review Application respectively, to contend that even on facts, the present case is identical to and squarely covered by the aforesaid judgment. Reliance was also placed upon the judgment rendered by the Division Bench of this Court in *Prem Parkash Gupta (supra)*, wherein the judgment in *Suresh Chand's case (supra)* was duly considered and affirmed.

6. Further reference was made to Annexure P-13 at page 245 of the paper book, and it was contended that respondent No. 2-Board had passed an order in terms of Paragraph 7 of the memorandum issued by the Finance Department, Government of Haryana, dated 07.01.2002, whereby the benefit of past service was extended to employees who had moved from a non-pensionable organisation to a pensionable organisation for the purpose of computing qualifying service towards pensionary benefits in respondent No. 2-Board. It was further submitted that the grant of the aforesaid benefit was subject to the employee depositing the CPF/EPF benefits already availed, along with up-to-date interest. Learned counsel pointed out that as many as 55



employees, falling within the two categories mentioned in Annexure P-13, had been granted the benefit of counting their past service rendered in HSMITC and other departments.

7. It has further been brought to the notice of this Court that the Government of Haryana formulated another policy dated 24.12.2020 (Annexure P-15), providing for payment of honorarium in lieu of pension to retrenched and adjusted employees of HSMITC. The said policy was made applicable to employees who were adjusted after 01.01.2006, on the premise that while other State Government employees were receiving pension under the applicable Rules, such retrenched employees were deprived of pensionary benefits as they stood covered under the New Pension Scheme (NPS). Accordingly, the Government considered their case for grant of honorarium. However, learned counsel submitted that the aforesaid policy was specifically intended for employees appointed pursuant to notification dated 21.06.2006. In this regard, reliance was placed upon information obtained under the Right to Information Act, 2005 (Annexure P-17), wherein the respondents themselves have admitted that the honorarium policy dated 24.12.2020 (Annexure P-15) is not applicable to the present petitioners.

8. Thus, learned counsel submitted that the claim of the petitioners is liable to be considered in the light of the judgment rendered in *Prem Parkash Gupta (supra)*, as well as in terms of the order dated 10.09.2019 (Annexure P-13), whereby respondent No. 2-Board had extended the benefit of counting past service rendered in HSMITC to its employees who had been re-employed after retrenchment from HSMITC.

9. *Per contra*, learned Senior counsel for the respondents submitted



that the facts of the present case are clearly distinguishable from those involved in *Prem Parkash Gupta (supra)*. It was contended that, in the aforesaid case, the benefit of past service had been granted because the petitioners therein were already serving in another department at the time HSMITC was closed down. Consequently, there was continuity in service, and the petitioners had been absorbed during the subsistence of their service prior to retrenchment. It was further argued that the policy dated 07.01.2002 (Annexure P-1) is not applicable to the present petitioners in view of the provisions contained in Paragraphs 4 to 6 thereof, as the said policy applies only to employees who had been transferred or were working on deputation with respondent No. 2-Board before the closing of HSMITC.

10. Learned Senior counsel placed heavy reliance on the judgement rendered by the Division Bench of this Court in **LPA No. 1105 of 2017**, titled as '*State of Haryana v. Nathu Singh*' and argued that the present case is squarely covered by the said judgement. The Division Bench in this case had also distinguished the judgement in *Suresh Chand/Prem Parkash Gupta (supra)*. Accordingly, learned counsel argued that the petitioner(s) are not entitled to the relief claimed, and the present batch of petitions deserves to be dismissed.

### **CWP 6693-2016**

11. Learned counsel for the petitioner in **CWP 6693-2016** contended that the petitioner had served in HSMITC from 23.10.1978 till 15.06.1998 as Junior Engineer. The petitioner was selected by the respondent no.2-Board (HSAMB) for appointment on the post of Junior Engineer on deputation and a letter dated 19.05.1998 (Annexure P-1) was issued to HSMITC for relieving of



the petitioner for joining the respondent No.2-Board at Rewari.

12. Learned counsel submitted that the respondent No.2-Board decided to absorb the petitioner permanently, and the petitioner gave his consent on 21.01.2000. However, surprisingly, the petitioner was ordered to be relieved by the respondent-Board vide order dated 01.07.2002 (Annexure P-2). Aggrieved by the aforesaid order, the petitioner approached this Court by way of CWP No. 9955 of 2002, which came to be allowed vide judgment dated 04.12.2008 (Annexure P-3). This Court directed the respondents to absorb the petitioner in the respondent-Board in accordance with the terms and conditions of the Board. In compliance of the judgment dated 04.12.2008, the respondent No.2-Board absorbed the petitioner as Junior Engineer vide order dated 17/27.07.2009 (Annexure P-4) w.e.f. 16.06.1998 with a condition that he will be entitled for seniority benefits and other service benefits w.e.f. 16.06.1998, and he will be treated as a fresh appointee, though his pay will be protected but arrears of pay will not be paid.

13. It was argued that the petitioner made various representations for payment of pension and other retiral benefits and for counting of previous service of HSMITC, but to no avail. It was further submitted that the office memorandum dated 07.01.2002 (Annexure P-12) for counting of past service was never brought to the notice of the petitioner nor any such condition was stipulated in the appointment letter providing an opportunity to exercise his option. Moreover, learned counsel placed heavy reliance on the judgement rendered by the Division Bench in *Prem Parkash Gupta (supra)* and argued that the petitioner's case is squarely covered by the said judgement.

14. Additionally, it was submitted that the petitioner was paid ACP



scale w.e.f. 01.07.2008 vide order dated 15.06.2012 (Annexure P-6) after a delay of about 04 years, and was not paid any interest on account of delayed payment. Moreover, the petitioner retired from the service of respondent-Board w.e.f. 31.03.2014 vide order dated 12.03.2014 (Annexure P-7) on attaining the age of superannuation. It was contended that the petitioner was ordered to be paid leave encashment vide order dated 02.01.2015 (Annexure P-8), however, the respondent-Board issued a letter dated 05.01.2015 (Annexure P-9) ordering not to make payment of leave encashment and the same was kept in abeyance till further orders.

15. Ultimately, the petitioner was ordered to be paid a sum of Rs.5,99,152/- vide order dated 15.03.2016 (Annexure P-10). A perusal of the said order would reveal that the petitioner was not sanctioned pension; rather the petitioner was given service gratuity in lieu of pension. The retiral benefits including pension of the petitioner are governed under the Haryana State Agricultural Marketing Board and Market Committees Employees Pension, Provident Fund and Gratuity Rules, 1989. As per Rule 6 of the aforesaid Rules, the Punjab Civil Services Rules, Volume II (as applicable to the State of Haryana) shall be applicable for the purpose of grant of Pension/Gratuity and General Provident Fund. Learned counsel contended that the denial of pension is contrary to the provisions of the aforesaid Rules.

16. Learned counsel further submitted that during the pendency of the present writ petition, the respondent No.2-Board vide order dated 10.09.2019 (Annexure P-20), extended the benefit of counting of past service to numerous employees including the petitioner subject to deposit of employer's share of CPF with interest. However, the petitioner was later denied the said benefit on



the ground that he had served from 06.07.2002 to 17.08.2009 in the Public Health Engineering Department (Annexure P-22). In this regard, learned counsel submitted that after the respondent No.2-Board relieved the services of the petitioner, he was left without any source of income and therefore, he made efforts to get appointment in different departments of the State Government. As such, the petitioner was selected and appointed as Junior Engineer (Civil) in the Public Health Engineering Department vide letter dated 11.11.2004 and continued to serve there till his joining with the respondent no.2-Board pursuant to absorption order dated 17/27.07.2009 (Annexure P-4) w.e.f. 16.06.1998. In light of the aforesaid, it was argued that the petitioner cannot be denied the benefit of order dated 10.09.2019 (Annexure P-20).

### **OBSERVATION & ANALYSIS**

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

18. At the outset, this Court considers it appropriate to examine the decisions rendered by the Division Bench of this Court in *Suresh Chand/Prem Parkash Gupta (supra)* and *Nathu Singh (supra)*. The Full Bench of this Court, vide order dated 17.02.2026 passed in **CWP No. 2465 of 2017**, has already considered the question as to whether any conflict exists between the aforesaid Division Bench judgments. Answering the said question in the negative, the Full Bench observed as under:

*“31. It is thus evident that there is a material distinction between the polices under consideration in both the judgments. Factually, the conditions of appointment letter reflect a changed factual consideration. Once the factual matrices and polices/instructions under consideration become distinct, the judgments based upon distinct polices cannot be said to be contradictory merely because they also happen to refer to a common policy.*



32. *In the present case, the reference by the Single Judge, in our opinion, has thus arisen on an erroneous assumption of a conflict between two judgments by Benches of Co-equal strength even though there exists none since the judgments are delivered in the context of different policies/instructions.*”

19. In *Prem Parkash Gupta (supra)*, the first respondent therein had joined HSMITC in the year 1978 and continued to serve there until 2002, when he was retrenched. However, it must be pointed out that the first respondent had already been serving on deputation as a Junior Engineer in HSAMB and came to be appointed/absorbed therein on 06.07.2002, even prior to the closure of operations of HSMITC.

20. On the other hand, in *Nathu Singh (supra)*, the services of the respondent therein were retrenched on 30.06.2002, and all service benefits due to him, including the amount payable under the “golden handshake” scheme, were released, thereby severing the relationship of master and servant. Thereafter, the State of Haryana, in exercise of powers conferred under Article 309 of the Constitution of India, notified a Scheme dated 21.06.2006 providing for the re-employment of regular retrenched Group ‘C’ and ‘D’ employees of Boards/Corporations/Public Sector Undertakings who had been retrenched during the period from 01.03.2000 to 01.03.2005. Significantly, the Scheme specifically stipulated that such adjustment/re-employment would be subject to the retrenched employee furnishing an affidavit declaring that he would be treated as a fresh appointee and would not claim any benefit of the service rendered prior to retrenchment. Pursuant to the said Scheme, the respondent therein was appointed as a Driver in the office of the Director General of Prisons, Haryana vide appointment letter dated 01.09.2006, i.e., more than four years after his retrenchment from service. The appointment letter expressly



provided that the appointment was being made afresh at the minimum of the applicable pay scale.

21. In the aforesaid factual background, the Division Bench in *Nathu Singh (supra)* set aside the judgment of the learned Single Judge and held that the respondent was not entitled to count the service rendered in the HSMITC prior to his re-employment for the purpose of pensionary benefits. The Division Bench further observed that the reliance placed upon the Office Memorandum dated 07.01.2002 by learned counsel for the respondent was misplaced. Paragraph 4 and 5 of the said Office Memorandum delineated the scope of its applicability and clarified that it applied only to cases where employees were appointed from one organisation to another through proper channel and were absorbed with the consent of the parent employer or appointed on transfer basis. Furthermore, it was inapplicable to cases involving employees who had already retired or who had been re-employed after retirement.

22. Most significantly, the Division Bench in *Nathu Singh (supra)* distinguished the judgement in *Suresh Chand/Prem Parkash Gupta (supra)* and observed as under:

*“16. Order passed by the Division Bench of this Court in Suresh Chand's case (supra) is also not relevant and is distinguishable on facts for the reason that the employees therein were working with the Corporation who were to be declared surplus on account of the Corporation running into loss. The incumbent therein was already working with the Haryana State Agricultural Marketing Board as Junior Engineer on deputation basis and was absorbed therein on 06.07.2002 before even the Corporation closed its operation. It was not the case where the employee was retrenched on account of the closure of the Corporation and had taken all his service benefits. Rather, it was a case of continuity in employment. Thus, Suresh Chand's case (supra) has also been wrongly relied upon by the learned Single Judge.”*

(Emphasis added)



23. Adverting to the facts of the present case, the services of the petitioners in **CWP-4949-2016** were retrenched in the month of July 2002. Pursuant to the policies framed by the Government of Haryana, the petitioners were **appointed/re-employed** in the year 2004 with respondent No.2-HSAMB. Pertinently, the petitioners were *not* already working with the respondent-HSAMB on deputation or transfer basis before their retrenchment. As noted above, Paragraph 4 and 5 of the Office Memorandum dated 07.01.2002 (Annexure P-1) specifically state that it shall not apply in the case of employees already retired or who have been re-employed after retirement. Relevant portion of the Office Memorandum dated 07.01.2002 (Annexure P-1) is reproduced hereunder:

**“4. Scope of the Office Memorandum: *This O.M. would apply to the employees who are in service and have not been retired from service on the date of issue of this O.M. and also subject to the condition that such employees applied for the job from one organization to the other through proper channel or should have been absorbed in the service with the prior consent of parent employer of the employee concerned or appointed on transfer basis.***

**5. Exclusion: *This O.M. shall not apply in the case of employees already retired or who have been reemployed after retirement and in case where the selection/appointment in the other entity is not through proper channel.*** *This O.M. shall not be applicable in the case of employee coming over to the Government from Public Sector Undertakings/Societies/Private Managements and such of the statutory bodies, which are not wholly/substantially funded by the State Government/Central Government.”*

(Emphasis added)

24. Furthermore, learned counsel for the petitioner(s) was unable to place any material on record to establish that their subsequent appointment in HSAMB was not in the nature of a fresh appointment/re-employment. Consequently, this Court is of the considered view that the judgment rendered



by the Division Bench in *Nathu Singh (supra)* squarely governs the facts of the present case and the petitioner(s) are not entitled to counting of their past service rendered in the HSMITC prior to their re-employment for the purpose of pensionary benefits. Furthermore, the judgment in *Prem Parkash Gupta (supra)* is clearly distinguishable on facts, inasmuch as the first respondent therein had already been serving on deputation as a Junior Engineer in HSAMB prior to his retrenchment, thereby establishing continuity in employment.

25. However, with regards to the petitioner in **CWP 6693-2016**, he was already working on deputation basis as Junior Engineer in respondent no.2-Board before the closure of HSMITC and had given his consent for permanent absorption on 21.01.2000. Thereafter, the petitioner was ordered to be relieved by the respondent No.2-Board vide order dated 01.07.2002 (Annexure P-2 in CWP 6693-2016). Being aggrieved, the petitioner approached this Court by way of CWP No. 9955 of 2002, which came to be allowed vide judgment dated 04.12.2008 (Annexure P-3). A brief perusal of the judgment dated 04.12.2008 shows that a decision had already been taken by the respondent No.2-Board to absorb the petitioner after he gave his consent on 21.01.2000. It was observed that a benefit had been accrued to the petitioner and the same cannot be denied merely because a year later HSMITC had decided to close down and No Objection Certificate could not be issued. Consequently, in compliance with the judgment dated 04.12.2008, the respondent-Board absorbed the petitioner as Junior Engineer vide order dated 17/27.07.2009 (Annexure P-4) w.e.f. 16.06.1998.

26. Therefore, it appears that the aforesaid case is covered by the judgment rendered by the Division Bench of this Court in *Prem Parkash*



*Gupta (supra)* since there is continuity in employment. The petitioner in **CWP 6693-2016** shall be entitled to the benefit of Office Memorandum dated 07.01.2002 (Annexure P-1 in CWP-4949-2016) and his past service rendered with HSMITC is liable to be counted for the purpose of pensionary benefits.

### **CONCLUSION**

27. In view of the foregoing discussion and the similarity in factual background, **CWP Nos. 4949-2016, 6824-2016, 7218-2016, 18882-2016, 19417-2016, 27126-2016, 2470-2017 and 37165-2019** are hereby **dismissed**. The aforementioned writ petitions are squarely covered by the judgement rendered by the Division Bench of this Court in *Nathu Singh (supra)*. Consequently, the petitioners therein shall not be entitled to counting of their past service rendered in the HSMITC prior to their re-employment for the purpose of pensionary benefits.

28. On the other hand, **CWP 6693-2016** shall stand **disposed of** in the following terms:

- a) The petitioner shall be entitled to the benefit of counting the past service rendered by him in HSMITC prior to his absorption in respondent No.2-Board, along with all consequential benefits arising therefrom.
- b) Consequently, respondent No.2-Board is directed to reconsider and re-examine the petitioner's claim for sanction of pension in place of Service Gratuity in lieu of pension.
- c) Furthermore, the petitioner had retired from the service of respondent No.2-Board w.e.f. 31.03.2014 vide order dated 12.03.2014 (Annexure P-7 in CWP 6693-2016) on attaining the age of superannuation. Though



the petitioner was ordered to be paid leave encashment vide order dated 02.01.2015 (Annexure P-8), the respondent No.2-Board subsequently issued a letter dated 05.01.2015 (Annexure P-9) ordering not to make payment of leave encashment and the same was kept in abeyance till further orders. Eventually, the petitioner was ordered to be paid a sum of Rs.5,99,152/- towards Gratuity and Service Gratuity in lieu of Pension vide order dated 15.03.2016 (Annexure P-10). The Full Bench of this Court in *A.S. Randhawa v. State of Punjab and others, 1997 (3) SCT 468* has categorically held that delay in the release of retiral benefits entitles the employee to the grant of interest on the delayed payment. Accordingly, respondent No.2-Board is directed to pay interest at the rate of 6% per annum on the delayed payment of gratuity and leave encashment, to be calculated from the expiry of two months from the date of the petitioner's retirement until the date of actual disbursement of the said amounts.

29. Pending miscellaneous applications, if any, shall also stand disposed of.

30. A photo copy of this order be placed on the file of connected cases.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**26.05.2026**

*Neha*

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No