

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

(326)

CWP No.8204 of 1996 (O&M)
Date of Decision:- 16.09.2015.

Sardara Ram

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: None for the petitioner.

Mr. Vaibhav Sharma, DAG, Punjab.

P.B. BAJANTHRI, J.(Oral)

The matter was called. None appears on behalf of the petitioner. Even on the last occasion i.e. On 05.08.2015 no one present on behalf of the petitioner. The matter was heard with the assistance of the State Counsel.

In this petition, the petitioner has sought for quashing Annexure P-5, dated 19.03.1994 by which request of the petitioner is to settle his pensionary benefits has been rejected.

The petitioner is stated to have joined service of the 2nd respondent as a Plant Observer in the Agriculture Department on 20.11.1952. In the year 1961 State of Punjab took a policy decision to create

an independent Agricultural University. Pursuant to the said policy decision a staff working in the Research and Education Wings/Institution under the Department of Agriculture stood transferred to newly created Punjab Agricultural University in terms of Section 22(2) of the Punjab Agricultural University Act, 1961. Section 25 of the said Act provides that transfer of services of the staff from the Agricultural Department to Punjab Agricultural University would be on foreign service. The respondent Department sought option from the employees whose services have been transferred to Punjab Agricultural University. Pursuant to the same, the petitioner gave his option/consent to join the University to that effect on 31.01.1964. The petitioner stood transferred permanently in the Agricultural University. On 29.02.1988 petitioner attained the age of superannuation and retired from service. His retiral benefits was not granted. Consequently, he had requested the respondents to grant retiral benefits.

Respondent No.3 after due examination of the petitioner's service record came to the conclusion that the petitioner services were never confirmed in any of the post. Consequently, with reference to Rule 5.3 of Punjab Civil Services Rules, Volume II, it was held that petitioner is not entitled to retiral benefits. Accordingly, a communication was made to the petitioner on 19.03.1994 vide Annexure P5. Feeling aggrieved by the communication dated 19.03.1994, the present petition has been filed by the petitioner.

In para 15(i) the petitioner framed question of law as follows:-

“15. That the main questions of law involved in the

present writ petition are as follows:-

- (i) *Whether the petitioner is entitled to be treated as a confirmed employee of the Agriculture Deptt., Govt. of Punjab and is, therefore, entitled for his post-retiral benefits?"*

The aforesaid question indicates that the petitioner is not a confirmed employee. Having regard to the aforesaid question, the petitioner's prayer should have been to treat his status as a permanent employee. Reading of the prayer nowhere, he has sought declaration that he should be treated as a permanent employee. Therefore, there is no infirmity in Annexure P5 communication dated 19.03.1994 issued by 3rd respondent.

At this juncture, learned State counsel furnished a copy of the endorsement No.7-9/MN Estb.-II dated 01.01.1997 issued by the Chief Agricultural Officer, Ludhiana by which once again it was held that petitioner is not entitled to retiral benefits having regard to the facts that the petitioner was not regular employee. The said endorsement dated 01.01.1997 is stated to have been communicated to the petitioner as is evident.

In view of these facts and circumstances, petitioner has not made out a case so as to interfere with the Annexure P5.

Accordingly, writ petition is dismissed.

No order as to costs.

16.09.2015
pooja saini

(P.B.BAJANTHRI)
JUDGE