

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

CWP No.9057 of 1996 (O&M)
Date of Decision:- 16.09.2015.

Bahadur Singh

.....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.

The matter was heard with the assistance of the State Counsel.

In this petition, the petitioner has sought for direction to release post retiral benefits to the petitioner.

The petitioner is stated to have joined service of the 2nd respondent as a Plant Observer in the Agriculture Department on 01.12.1953. 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 08.11.1962. The petitioner stood transferred permanently in the Agricultural University. On 31.03.1991 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 services of petitioner 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 08.02.1994 vide Annexure P2. Feeling aggrieved by the communication dated 08.02.1994, the present petition has been filed by the petitioner.

In para 10(i) of the petition, the petitioner framed question of law as follows:-

“10. 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 .

The petitioner has not produced any material to show that he was regularly appointed or confirmed so as to claim retiral benefits. On this count, the petitioner has not made out a right to seek writ of mandamus to direct the respondents to release retiral benefits.

Accordingly, writ petition is dismissed.

No order as to costs.

16.09.2015
pooja saini

(P.B.BAJANTHRI)
JUDGE