

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 11370 of 2012 (O&M)

Date of Decision : 24.02.2015

Karamjit Sharma

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1)Whether reporters of local newspapers 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 : Mr. R.K.Chopra, Sr. Advocate with
Ms. Shikha Jaidka, Advocate for the petitioner

Ms. Monica Chibber Sharma, DAG, Punjab

MAHESH GROVER, J.

The petitioner was appointed as a JBT teacher on ad hoc basis on 18.5.1995. Her services were terminated on 13.11.1997 on the ground that qualification of diploma in Arts and Craft was obtained from the State of Haryana. The termination was challenged by way of a civil writ petition bearing no. 10067 of 2003 which was allowed essentially in terms of an earlier writ petition filed by similarly situated persons where the operative part of the relief clause would read as under:-

“Taking into consideration the totality of circumstances, the impugned order cannot be sustained. The action of the respondents in terminating the services is consequently set aside. The writ petitions are allowed. There will be no order as to costs.”

The petitioner was not reinstated in service leading to initiation

of contempt proceedings against the respondents. Finally an order dated 15.5.2005 was passed reinstating the petitioner on regular basis from where the petitioner finally superannuated.

The grievance of the petitioner is that the period of service rendered by her from November, 1997 till 14.4.2005 ought to be construed for the purposes of pensionary benefits particularly when she had even served from 2000 to 2003 on 89 days basis with the respondents.

The petitioner preferred a civil suit with this grievance which was dismissed but with a direction to the respondents to pass a speaking order within a period of three months. The operative part of the judgment of the civil Court is extracted hereunder:-

“In view of the discussion on issue No.1, the suit of the plaintiff fails and is hereby dismissed. However, the defendant would be at liberty to pass any appropriate order at the same time in the matter and they are directed to dispose of Ex.PW2/A in next three months by passing speaking order. Decree is prepared accordingly.”

Subsequent thereto an order has been passed by the respondents declining the benefits claimed by the petitioner on ground of no work no pay. It would be appropriate to extract the portion of the order for ready reference:-

“Whereas I, Malkeet Kaur, District Education Officer (EE) Bathinda reject the case of the plaintiff for service benefit to her for her gap period from 13.11.1997 to 18.05.2000 and 23.08.2003 to 14.05.2005 on the ground of rule “NO WORK NO PAY”. Therefore, the plaintiff Karamjit Sharma is

not entitled for the benefit claimed by her.”

On perusal of the aforesaid, I am of the view that the core issue centres around the grievance of the petitioner for construing the period of service from 1997 to 2005 for pensionary benefits which has not been addressed by the respondents at all. Rather they have proceeded on the premise of the petitioner seeking monetary consequences for the said period.

The impugned order is therefore set aside and the matter is remitted back to the respondents to pass a speaking order afresh keeping in view what has been observed above. Let needful be done as expeditiously as possible preferably within a period of four months from the date of receipt of the certified copy of this order.

Disposed of.

February 24, 2015
rekha

(MAHESH GROVER)
JUDGE