

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 13952 of 2013 (O&M)

Date of decision : 29.10.2015

Mrs. Adarsh Mangal

.....Petitioner

Versus

The Panjab University, Chandigarh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Mansur Ali, Advocate
for the petitioner.

Mr. Vikrant Sharma, Advocate
for the respondents.

LISA GILL, J.

Prayer in this writ petition is for release of arrears of pension due to the petitioner w.e.f. 01.04.2006 till 30.06.2011. Facts of the case are that petitioner retired as Library Assistant from the respondent- University on 31.07.2004. Punjab University Employees Pension Scheme (Annexure P-4) was made effective from 24.10.2005. As per Clause 1.8 (e) of Punjab University Employees (Pension) Regulations 1991 (for short 'the Regulations') employees who retired prior to 24.10.2005 could elect to be governed by these Pension Regulations. It is relevant to note at this juncture that the

petitioner had not got any pension at the time of retirement though admittedly she received all the benefits due to her as per the existing rules at the time of her retirement.

Clause 1.8 (e) of the Regulations reads as under:-

“(e) The employees who retired prior to 24.10.2005 may, if they so desire, elect to be governed by these Pension Regulations, subject to the condition that they refund the University's C.P. Fund contribution, including interest thereon, as received by them from the University for being credited to the University Pension Fund (Corpus). The University would neither charge any interest on this amount of the University share of C.P. Fund received by the retiree for the period from the date of his retirement upto the date of his joining the Pension Scheme nor would pay any arrear of pension. The pension may be made available to the employees from the date they deposit their University share of C.P. Fund, including interest thereon.”

Petitioner opted for the said pension scheme on 30.03.2006 but her request was rejected on 22.11.2006 (Annexure P-5) on the ground that she did not have qualifying service of ten years to be eligible for drawing pension.

Petitioner approached this Court preferring CWP No. 5893 of 2009, which was decided on 04.02.2011 (Annexure P-7). Respondent-University was directed to reconsider the matter while counting the adhoc service rendered by the petitioner w.e.f. 08.07.1988 which was followed by regular appointment. As per order dated 10.06.2011 (Annexure P-8), respondent-University on reconsideration concluded that service of the petitioner after adding

adhoc service comes to 15 years, one month and 13 days, therefore, she is entitled to get pension. She was asked to deposit a sum of ₹1,65,324/- on account of University contribution towards pension vide order dated 29.06.2011 (Annexure P-9). Said amount was deposited by the petitioner on 29.06.2011. Pension was released to the petitioner w.e.f. 01.07.2011 (Annexure P-11).

Grievance of the petitioner is that having given option for pension on 30.03.2006 itself she is entitled to receive the arrears of pension w.e.f. 01.04.2006 till 30.06.2011. It is due to the act of the respondents that she was not able to deposit the requisite amount prior to 2011. Thus, she cannot be penalised for no fault of her.

Learned counsel for the respondents while relying on Clause 1.8 (e) of the Regulations vehemently argues that pension can be released only from the date the employee/retiree deposits the University share of Contributory Provident Fund including the interest which was received by them. It is contended that as per Clause 1.8 (e) of the Regulations, the University does not charge any interest on the amount of the University share of the Contributory Provident Fund received by the retiree for the period from the date of his retirement up to his joining the pension scheme neither any arrears of pension are paid. Said amount was admittedly deposited on 29.06.2011 by the petitioner, therefore, pension has been rightly made available w.e.f. 01.07.2011.

I have heard learned counsel for the parties and gone through the file.

It is apparent that the petitioner opted for pension scheme

on 30.03.2006 itself. Her claim was rejected by the respondents on the ground that she did not fulfil the requirement of 10 years qualifying service. This Court vide decision dated 04.02.2011 (Annexure P-7) set aside action of the respondents in not counting the adhoc service rendered by the petitioner before she was regularised. On a direction of this Court, respondents after considering her adhoc service concluded that petitioner rendered 15 years, one month and 13 days service, therefore, was entitled for pension.

It is in these circumstances that necessary amount was deposited in the year 2011. Petitioner would have deposited the said amount in the year 2006 itself, in case her claim had been accepted by the respondents at that point of time. Delay in deposit of the said amount cannot be attributed to the petitioner in any manner.

Learned counsel for the respondents, at this stage while not conceding the petitioner's case, contends that writ petition challenging rejection of the petitioner's claim for pension was itself filed after a delay of nearly three years. Rejection was conveyed on 22.11.2006, Annexure P-5 and CWP No. 5893 of 2009 was filed on 21.03.2009. Petitioner is, therefore, not entitled to pension for this period in any manner.

Learned counsel for the petitioner on instructions submits that petitioner gives up her claim for pension from the year 2006 till the filing of CWP No. 5893 of 2009 i.e. 21.03.2009.

Keeping in view the peculiar facts and circumstances of this case, this writ petition is disposed of with a direction to the

respondents to release arrears of pension from the date of filing of CWP No. 5893 of 2009 till 30.06.2011 within two months from the date of receipt of certified copy of this order without interest, failing which interest at the rate of 7.5% shall be paid from today till the date of release of the said amount.

October 29, 2015
rts

(Lisa Gill)
Judge