

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

CWP-20780-2013 (O&M)
Date of decision : 27.05.2015

Manorma Gautam

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P.K. Goklaney, Advocate,
for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
for respondent Nos.1 to 3.

None for respondent No.4.

JITENDRA CHAUHAN, J.

The prayer in the present petition filed under Articles 226/227 of the Constitution of India, is for counting of uninterrupted service rendered by the petitioner against leave vacancy from 01.06.1976 to 31.05.1981 with respondent No.4-Hindu Putri Pathshala (Girls) High School, Kapurthala.

The petitioner retired from service on 21.08.1989. The petitioner has been allowed benefit for the period commencing from 01.06.1981 onwards, however, the benefit of previous service rendered by her from 01.06.1976 to 31.05.1981, against leave vacancy, has not been extended to her. The learned counsel submits that the case of the petitioner is squarely covered by the ratio of law laid down in *Harjit*

Kaur Vs. State of Punjab and others, rendered in CWP No.11451 of 2008, decided on 21.04.2009.

On the other hand, the learned State counsel has not been able to controvert the arguments raised by learned counsel for the petitioner. Respondent No.4 did not contest this petition.

Heard.

In Harjit Kaur's case (supra), after discussing and analyzing the effect Rules 3.23 and 4.23 of the Punjab Civil Services Rules, this Court held as under:-

“A conjoint reading of the aforesaid rules categorically provides for counting of ad hoc service even spreading over different spells with interruption as qualifying service for the purpose of pension by excluding the interruptions caused without resignation, dismissal, removal or participation in strike. The rule does not make any distinction between ad hoc service rendered against leave arrangement or against the vacant post and in view of the clear mandate of rule 4.23 even the different spells of ad hoc service are to be counted except in the situations mentioned therein.

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In view of the mandate of rule 4.23 while giving the benefit of ad hoc/temporary service the period of interruption shall be excluded. This petition is accordingly allowed and respondents are directed to take into consideration all spells of ad hoc service rendered by the petitioner whether against leave vacancy or against vacant post as qualifying service for purpose of pension. However, the period of interruptions shall be excluded from reckoning.....”

This Court in *Asha Sharma Vs. State of Punjab and others*, rendered in CWP No.11852 of 2010, decided on 11.08.2011, has took the similar view and held thus:-

“Counsel for the petitioner has referred to a judgment passed by this Court in Harjit Kaur v. State of Punjab & Others (C.W.P. No.11451 of 2008 decided on 21.4.2009) (Annexure P2). In this case the precise question before the Court was whether ad-hoc service rendered by an employee against a leave vacancy can be counted for the purpose of pension or not. Rule 3.17 and 3.17(a) of the CSR does not make any distinction between ad-hoc service rendered against leave vacancy or vacant post. Therefore, in view of the clear mandate of Rule 4.23 different

spells of ad-hoc services are to be counted for the purpose of pension. This is also stands concluded by a Full Bench of this Court in Kesar Chand v. State of Punjab & Others 1988(5) SLR 27. Since there is no distinction between ad-hoc service and leave arrangement, the petitioner's service rendered against a leave vacancy is also liable to be counted towards pensionary benefits.”

Keeping in view the above, the present petition is allowed in terms of Harjit Kaur's case and Asha Sharma's case (supra) and it is directed that the respondents shall count the period of service rendered by the petitioner against leave vacancy w.e.f. 01.06.1976 to 31.05.1981 with respondent No.1, towards the total period of service rendered by her. The consequential benefits shall be released to the petitioner within a period of four months from the date of receipt of a certified copy of this judgment.

27.05.2015
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(JITENDRA CHAUHAN)
JUDGE

Note : Whether to be referred to Reporter: Yes / No