

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

(229)

CWP No.22124 of 2014

Date of Decision:- 07.09.2015.

L.S.Yadav

.....Petitioner

Versus

State of Haryana 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: Mr. K.L.Arora, Advocate for the petitioner.

Mr. Sourabh Mohunta DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

In this petition, petitioner is seeking for direction to respondents to grant pension and other retiral benefits while counting service rendered by him in the Kamla Nehru College, Jatauli, Hailey Mandi (Gurgaon) for the period from 15.07.1971 to 02.11.1977.

The petitioner was appointed in the aforesaid college on 15.07.1971. While he was in service he has applied for the post of Lecturer in Geography in K.L.P. College, Rewari. It is stated that he has been selected on 02.11.1977. He was relieved on 02.11.1977 by the Kamla Nehru

College, Jatauli, Hailey Mandi. On the same day, he is stated to have been reported in K.L.P. College, Rewari. He has attained age of superannuation and retired from service on 31.12.2008 from K.L.P.College, Rewari. Arising out of the aforesaid facts and circumstances, learned counsel for the petitioner contended that the respondents have not counted the service rendered in Kamla Nehru College for the period from 15.07.1971 to 02.11.1977 towards grant of retiral benefits. It was also contended that there is no break in service since he was relieved from Kamla Nehru College on 02.11.1977 and he has joined K.L.P.College, Rewari on the same day. Therefore, he is entitled for the service rendered in Kamla Nehru College towards retiral benefits on the ground that both the colleges are aided colleges.

Per contra, learned counsel for the State submitted that the petitioner was relieved on 02.11.1977 from Kamla Nehru College which is deemed to be resigned from the post of Lecturer in Kamla Nehru College. Consequently, the petitioner is not entitled for the relief sought in this petition. It was further contended that the petitioner has not been selected through proper channel.

Heard learned counsel for the parties.

Short question for consideration is regarding counting of service for the period from 15.07.1971 to 02.11.1977 in the Kamla Nehru College towards grant of retiral benefits. For the purpose of the qualifying service Rule 6 of the Haryana Affiliated Colleges (Pension and Contributory Provident Fund) Rules, 1999 is relevant. An extract of Rule 6 is reproduced herein:-

“Rule 6 -Qualifying Service

*The service of an employee **shall qualify** for retirement benefits under these rules as under:-*

- (i) The service rendered on attaining the **age of 18 years** on approved post admitted for grant-in-aid.*
- (ii) The service rendered **uptill the attainment** of superannuation age of **sixty years**;*
- (iii) The leave admissible under the Haryana Affiliated Colleges (Security of Service) Rules, 1979 and under instructions issued by the Government from time to time, excluding the leave without pay and period of suspension, overstayal of leave not subsequently regularised and period of break in service.*
- (iv) Service rendered in one or more private affiliated colleges, receiving grant-in-aid **under the same management.***
- (v) **Service rendered on aided sanctioned post in any aided college in the State of Haryana:***

***provided that** the official has been appointed through proper channel on aided sanctioned post and the approval of continuity of service has been obtained from the Director:*

***Provided further that** the contributory Provident Fund account of the employee in the previous college continued as such in the subsequent college to which he is transferred or appointed and there is no break in service or the service condition as modified by the Government from time to time.”*

Sub Rule (v) of Rule 6 provides that service rendered on aided sanctioned post in any aided college in the State of Haryana:

provided that the official has been appointed through proper channel on aided sanctioned post and the approval

**of continuity of service has been obtained from the
Director:**

The above requirement of law is not forthcoming in the present matter. In other words, for the purpose of counting services rendered in Kamla Nehru College for the period from 15.07.1971 to 02.11.1977 and joining in the KLP College, Rewari on 02.11.1977, is to be recognized and approved by the Director. It seems that Director has not approved the continuity of service of the petitioner. Therefore, this writ petition is premature. On this short ground, the petition is liable to be rejected.

Rejection of this petition will not come in the way of petitioner to submit representation along with necessary documents to satisfy sub Rule (v) of Rule 6 of the Haryana Affiliated Colleges (Pension and Contributory Provident Fund), Rules 1999 within the period of 4 weeks'. Thereafter, the Director is directed to examine the representation and records and to take necessary action to approve the continuity of service of the petitioner if it is in accordance with law at the earliest not later than 8 weeks' from the date of receipt of petitioner's representation.

Accordingly, the writ petition is disposed of.

**(P.B. BAJANTHRI)
JUDGE**

September 07, 2015.
pooja saini