

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8398 of 2011

Date of Decision:- 03.09.2015.

Ishwar Singh

.....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. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

P.B. BAJANTHRI, J.

1.) In this writ petition, the petitioner is seeking for a direction to count the service rendered in the Judicial Department from 12.9.1981 to 15.01.1987 for the purpose of computing service towards grant of retiral benefits.

2.) Learned State counsel contended that the petitioner is not entitled for the relief sought i.e. to count the service rendered in judicial Department for the reason that the petitioner did not take permission while applying for the post of SS Master in the Education Department. Therefore, he is not entitled to count the service rendered in Judicial Department. It was also contended that

petitioner took voluntary retirement and his application for the post of SS Master was not routed through proper channel, namely, through the District and Sessions Judge, Rohtak.

3.) Respondent Nos.4 and 5 have also filed statement of objections wherein it is stated that respondent Nos.4 and 5 have no objection to give appropriate relief to the petitioner. An extract of reply statement is reproduced hereunder:-

“That the answering respondent Nos.4 & 5 have no objection to give appropriate relief to the petitioner.”

4.) In other words, they are not resisting the claim of the petitioner. The facts are undisputed that the petitioner rendered service in the Judicial Department for the period from 12.9.1981 to 15.1.1987. At this juncture, the State counsel cannot contend that selection and appointment of the petitioner to the post of SS Master in the Education Department is not through proper channel and so also without permission of the District and Sessions Judge, Rohtak. That too when the District and Sessions Judge, Rohtak has not disputed the aforesaid contentions. Insofar as contention of the learned State counsel that the petitioner took voluntary retirement, therefore, he is not entitled to count the service, in this regard, the State counsel has not pointed out any provision which prohibits for counting past service rendered in a different Department. Learned counsel for the State further contended that the petitioner has resigned the post of Assistant Ahlmad on 15.01.1987, therefore,

under Rule 3.17 (b) of the Punjab Civil Services Rules, Volume-II, the service rendered by the petitioner in the Judicial Department cannot be counted. Rule 3.17 (b) deals with Central and State Government whereas the petitioner herein was not working in the Central Government. On the contrary, he was working in the Judicial Department which is one of the State Government Department. Therefore, Rule 3.17 (b) is not applicable to the petitioner's case.

5.) Rule 4.19 (b) of the Punjab Civil Services Rules, Volume-II reads as under:-

“Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not a resignation of public service.

In cases where an interruption in service is inevitable due to the two appointments being at different stations, such interruptions, not exceeding the joining time permissible under the rules on transfer, shall be covered by grant of leave of any kind due to the Government employee on the date of relief or by formal condonation under Rule 4.23 to the extent to which the period is not covered by leave due to the Government employee.”

6.) The resignation of the petitioner should have been treated

as relief from the Judicial Department in order to enter Education Department since both the Departments come under the State Government, namely, State of Haryana. In view of these facts and circumstances, the respondents are directed to count the service rendered by the petitioner in the Judicial Department from 12.9.1981 to 15.01.1987 towards retiral benefits with reference to Rule 4.19 (b) read with Rule 4.23 of the Punjab Civil Services Rules Volume-II. The arrears of retiral benefits should be settled within a period of eight weeks from the date of receipt of certified copy of this order.

7.) Accordingly, the writ petition is disposed of.

(P.B. BAJANTHRI)
JUDGE

September 03, 2015.

sandeep sethi