

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 788 of 2015

Date of Decision : January 28, 2015

B. K. Sachdeva and others Petitioners

Vs.

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. R. K. Bansal, Advocate
 for the petitioners.

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DEEPAK SIBAL, J. :

Through the present writ petition, the petitioners, who retired as Lecturers from the respondent-College, which was affiliated to the Guru Nanak Dev University, Amritsar (hereinafter referred to as – the University), challenge Clause 22 (3) of the Guru Nanak Dev University Calendar, Vol. IV, 2007 to the extent of fixing cut-off date as 01.01.2012 with regard to encashment of earned leave and further pray for issuance of a writ in the nature of mandamus directing the respondents to grant leave encashment of earned leave to the petitioners.

The particulars with regard to each of the petitioners, regarding the subjects taught by them, date of joining, date of retirement, basic pay at the time of retirement and gross pay at the time of retirement are given below in a tabulated form :-

DOABA COLLEGE, JALANDHAR

<i>Sr. No.</i>	<i>Name</i>	<i>Department</i>	<i>D. O. J.</i>	<i>D. O. R.</i>	<i>Basic Pay</i>	<i>Gross Pay</i>
1	B. K. Sachdeva	Commerce	17.07.1971	29.02.2008	18300/-	45818/-
2	Anil Malhotra	Economics	24.07.1970	31.05.2007	18300/-	42524/-
3	R. N. Ghai	Economics	13.07.1971	30.08.2008	18300/-	45818/-
4	R. C. Joshi	Mathematics	01.08.1968	31.12.2006	18300/-	41151/-
5	D. B. Rai	Punjabi	06.08.1975	31.08.2009	18300/-	52131/-
6	V. K. Jain	Commerce	27.07.1971	31.07.2007	18300/-	42524/-
7	Jatinder Singh Bedi	Pol. Science	06.08.1974	31.08.2006	18300/-	41151/-
8	S. N. Kanwar	Economics	27.07.1974	30.06.2009	18300/-	49386/-
9	Kiran Prabhakar	Psychology	07.07.1976	31.03.2010		

From the above, it is clear that all the petitioners have retired prior to 01.04.2010.

Vide decision dated 25.02.2014, the Syndicate of the University converted the Privilege Leave into Earned Leave, which could be encashed, but made it applicable only to Principals, Professors, Associate Professors and Assistant Professors who had retired on superannuation/ prematurely on or after 01.01.2012. Since the petitioners had retired prior to the above mentioned cut off date and were not covered under the above benefit, they, through the present petition, challenge the fixation of the date of applicability of the benefit. The impugned Clause 22 (3) of the Guru Nanak Dev University Calendar, Vol. IV, 2007 is reproduced below for

ready reference :-

“22 (3) Encashment of earned leave :

All the Principals/Professors/Associate Professors/Assistant Professors of the private colleges affiliated to Guru Nanak Dev University, Amritsar shall be allowed encashment of unutilized earned leave to a maximum number of days as decided by the Punjab Government from time to time. Cash payment shall include pay and allowances as per Punjab Government CSR. This provision shall be applicable to all the Principals/Professors/Associate Professors/Assistant Professors who retire on superannuation/pre-mature on or after 1 January, 2012, Unutilized privilege leave to the credit of the Principals/Professors/Associate Professors/Assistant Professors shall henceforth be treated as earned leave.”

A perusal of the record shows that the above benefit was not available to any of the employees of the University prior to the decision dated 25.02.2014. Thus, a new benefit, for the first time, was introduced by

the University through the above Clause impugned by the petitioners. No right of the petitioners, which they were enjoying earlier, has been taken away. Merely a benefit, for the first time, has been introduced by the University and we see no reason in law for the same to be introduced from a retrospective effect so as to cover even the employees like the petitioners, who have retired about five years ago. We find no illegality in the fixation of the date from which the above benefit has been given. Only because that date does not cover the dates of retirement of the petitioners cannot per se make the fixation of the date in the impugned Clause as illegal.

Learned counsel for the petitioners submitted that other Universities were granting the above benefit from the year 1990, and therefore, the action of the University was discriminatory. We are not impressed by such a submission made on behalf of the petitioners. Each of the Universities are autonomous bodies and are entitled to take their own independent decisions. Merely because some other University is granting the benefit from an earlier date, would not render the fixation of the date in the case in hand to be discriminatory.

Finding no illegality in the action impugned by the petitioners, the writ petition filed by them is ordered to be dismissed in limine.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

January 28, 2015
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