

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

CWP No. 9664 of 2014 (O&M)

Date of decision: 30.07.2015

Sube Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Mandeep Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks directions to the respondents to count the period from 11.02.1981 to 18.08.1989 towards qualifying service for the purpose of pension.

It is contended that the petitioner was appointed as Accounts Clerk on 19.07.1979 in a Government aided private college which was subsequently taken over by the Govt., on 11.02.1981. The petitioner served the college upto 18.08.1989 without any interruption. Subsequently, the petitioner applied through proper channel for the post of lecturer and was appointed in Govt., aided college on 19.08.1989 which was also taken over by the

Govt. He retired on 31.05.2013 from the college.

The precise grievance of the petitioner is that he has been held ineligible for pension for the period 19.08.1989 to 31.07.1990 on the ground that the employer had not deducted the CPF of the said period and the petitioner did not apply for the subsequent job as a lecturer in Commerce in Govt., aided private college through the proper channel.

So far as the first grouse of the petitioner is concerned, the learned counsel for the petitioner submits that now the option has been given by the respondents that in case the petitioner deposit the amount of CPF to be deducted by the employer along with 10% p.a., compound interest, the necessary benefit will be released and this period will be treated as qualifying service for the purpose of pension. In this context, the learned counsel for the petitioner, on instructions, undertakes to deposit the same within eight weeks from the receipt of certified copy of this order.

In these circumstances, the petitioner shall deposit the entire amount as calculated by respondent No.2 within four weeks from the receipt of such a communication. So far as the second grouse is concerned, it is made out from Annexure P-4 that the application of the petitioner was duly forwarded by the then Principal, Govt., College Sidhrawali, Gurgaon which bears the endorsement No. 5204-06 dated 29.06.1989. No adverse inference

against the petitioner can be drawn on the stand taken by the respondents that the said communication was never received by the office of respondent No.2. If there was failure on the part of Principal, the respondent No.2 was at liberty to take necessary action against him/her. This Court feels that the petitioner was fully vigilant and adopted the proper procedure to send his application through the Principal, therefore, the petitioner cannot be allowed to suffer. Otherwise also, it is not in dispute that the petitioner was never charge-sheeted nor any inquiry was pending against him at the time of retirement. This hypertechnical view taken by the authorities cannot be approved. Thus, the service rendered by the petitioner from 10.02.1981 to 18.08.1989 in the Government College is to be counted towards pension.

Accordingly, the present petition is allowed. It is ordered that the period from 11.02.1981 to 18.08.1989 shall be counted towards qualifying service for the purpose of pension. The necessary benefits shall be released to the petitioner within four months from the date of receipt of certified copy of this order.

30.07.2015

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to reporter : Yes / No