

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

CWP No.7635 of 1993

Date of decision: 28.1.2016

Karam Singh Randhawa

... Petitioner

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Alka Chatrath, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. A.G., Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The petitioner worked as a Seed Production Officer on deputation to the Indian Agricultural Research Institute (IARI), New Delhi from August 1, 1972 to June 30, 1980. Prior thereto he served on deputation with the Institute from August 1, 1968 for two years with extension upto May 8, 1970. Initially the petitioner was appointed and selected to serve in the Directorate of Agriculture, Punjab and joined the department on September 3, 1959 as a direct recruit. The petitioner says he worked hard and earned very good reports and he was selected on deputation to serve on the post of Farm Superintendent in the Division of Agronomy at the IARI. While he was serving there he was selected and appointed as Senior Scientist on July 1, 1980 in the same Institute and worked there till December 31, 1985. From January 1, 1986 till the date of filing of the petition in 1993, he was working as Principal Scientist/ Head in the Indian Agricultural Research Institute at Karnal, Haryana.

2. In the remote past while the petitioner was employed with the Punjab Government he had resigned from the post of Agricultural Inspector in order to join the position offered in the IARI. His period of service in Punjab was in fact, as it appears from the case papers, with the Punjab Agricultural University, Ludhiana. He was released from the Punjab Government service on deposit of bond money executed by him with the Punjab Government on July 20, 1972 to mark his onward career. He says that his resignation was technical in nature and had to be ante-dated due to a technical hitch when he was asked to submit his resignation vide letter dated November 15, 1978. In this petition, he claims benefit of service rendered with the Punjab Government and cites Rule 7.5(2) page 123 of the Punjab Civil Services Rules, Vol. I, Part I (Main Rules) 1984 Edition for pro rata pension by clubbing service past and present. The Rule prescribes as follows:-

“7.5(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent under the Government where service qualifies for pension.”

3. The period of service claimed in the Punjab Government is from September 3, 1959 to July 31, 1972. His case for counting service rendered in the Punjab Government was rejected by the Director of Agriculture, Punjab, Chandigarh, vide letter dated September 15, 1979 for the reason that he resigned his post and therefore, the question of payment of pensionary benefits and liabilities did not arise. Similarly, the Joint Secretary, Department of Agriculture (Development), Punjab, again

reaffirmed by his letter dated June 16, 1983 that the period from 1959 to 1972 could not be counted as service qualifying for pension under the Punjab Government.

4. Ms. Alka Chatrath, learned counsel appearing for the petitioner relies on the letter dated March 31, 1982 issued by the Ministry of Home Affairs, Government of India, New Delhi, on the subject of allocation of pensionary liability in respect of temporary service rendered under the Government of India and State Governments. The fallacy in the argument of the petitioner is that he was not a Central Government employee but worked with the IARI, which was an independent autonomous body sponsored by the Central Government. The petitioner did not hold the post under the Central Government and therefore, the resignation severs link with the Punjab Government and the circular relied on will not act in aid of clubbing Punjab Government service with service rendered in IARI in its continuous integrity but on closer examination of the legal position the resignation is a full-fledged one and not technical in nature as canvassed by the petitioner and thus the period of thirteen years service rendered with the Punjab Government becomes inconsequential in the absence of continuity protected by a policy circular recognised bilaterally between the Punjab Government and the Central Government. The IARI remains outside the ambit of the liability of the Punjab Government towards an ex-employee who tendered resigned to make way for joining the post in another organization which does not qualify as Central Government service on a post in a cadre of another office of the Punjab Government. The reliance of Ms. Chatrath on the

decisions of the Supreme Court in **R.L. Marwaha v. Union of India & ors.**, 1987(3) JT 292, **R.K. Gupta v. Union of India & ors.**, 1987(4) JT 157, **Sukhdev Singh & ors. v. State of Punjab & ors.**, 2010(7) SLR 772, and the decision of this Court in **Er. Ramesh Chander Mahajan v. State of Punjab & ors.**, 2011(2) SLR 421 are of no help and the reliance is misjudged.

5. The ruling in *Marwaha* case (supra) is clearly distinguishable on facts as the petitioner therein migrated from Central Government service to the Indian Council of Agricultural Research which is an autonomous body sponsored by the Central Government itself and therefore, the liability of the Central Government and ICAR was joint towards pension etc. The case did not involve the State and the Central Government or its autonomous body. The other rulings are also of no help to the case of the petitioner including the subsequent decision in *R.K. Gupta's* case(supra), where *Marwaha* case was relied upon which is a case arising between the State of Uttar Pradesh and the Employees' State Insurance Corporation located in the State of Haryana. In *R.K. Gupta* the Supreme Court observed that the question has to be examined by the authority concerned in the light of the necessary material which may be placed before it by the petitioning claimant. None of these rulings to my mind are direct on the point. The other precedents in their ratios cannot also be relied upon to grant relief to the petitioner to secure him pension from Punjab.

6. There is yet another important aspect which has been brought to the notice of the Court by Mr. Manuja, learned Additional

Advocate General, Punjab which confirms the view that the petitioner is not entitled to club the service of thirteen years with service rendered in IARI as the petitioner was selected and appointed to the autonomous body sponsored by the Central Government without applying through the proper channel. His journey breaks the much needed continuity and the resignation takes full effect in all its legal consequences severing permanently his relationship with the Punjab Government so far as claim to pro rata pension and terminal benefits is concerned entailing loss of right to pension from the Punjab Government. Consequently, there is no life found in the petition warranting interference and the same is ordered to stand dismissed without any costs.

28.01.2016
monika

(RAJIV NARAIN RAINA)
JUDGE