

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

Date of decision: 18.05.2016

CWP No.16583 of 1997

Bhishma Datt

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Neha Jain, Advocate, for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

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

RAJIV NARAIN RAINA, J. (ORAL)

The prayer for gratuity and leave encashment was declined by the Division Bench by order dated 13.05.1998. The case was kept open only on the point of pension and whether the respondent-College had or had not implemented the pension scheme for its employees.

The petitioner was appointed as a Library Restorer in the year 1957 and retired as such on 31.01.1996. The respondent institution is the DAV College Managing Committee, Hoshiarpur. The case is contested. In the written statement filed, it has been averred in Para.2 that the pension scheme has not been enforced till the date of the filing of the reply i.e. 28.02.1998. The respondent – Managing Committee was directed to file an affidavit in this regard. An affidavit of Mr. Ved Rattan Sood, Secretary, DAV Management Committee, Hoshiarpur has been filed to the effect that a letter dated 16.03.1998 had been received from the Director Public Instructions (Colleges),

Punjab in which it was informed that teaching and non-teaching staff of the privately managed aided colleges, whose posts are covered under the 95% Grant-in-Aid Scheme shall be entitled for pension and gratuity w.e.f. 01.04.1992. It has also been mentioned that the benefit shall be available to only those employees who were holding posts under 95% Grant-in-Aid Scheme covered up to 01.11.1981. A copy of the letter dated 16.03.1998 is placed on record as Annex - A.

In the main written statement filed by the Management, it has been categorically averred that the petitioner was not holding a post covered under the 95% Grant-in-Aid Scheme and his salary was paid out of contingency funds of the Management, which means out of self-financing scheme. The Government of Punjab has never paid anything against the post held by the petitioner and, therefore, the petitioner's case is not covered under the pension scheme. There is no rebuttal affidavit and, therefore, the affidavit of Mr. Sood is accepted as the true and correct position.

In the absence of any evidence on record that the petitioner was working as a Library Restorer on an aided post, it would not be possible to give any relief to him as claimed in this petition as presently advised. The same is consequently dismissed.

However, if the petitioner has any unimpeachable material or cogent ground to show to the contrary, he would be free to make an application in this disposed of matter for revival of the petition for further directions, if any required to avoid any miscarriage of justice.

18.05.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE