

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 18685 of 2010 (O/M)
Date of decision : 18.10.2016

Ram Chander Poonia

..... Petitioner (s)

Versus

State of Harayna and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Dhruv Sihag, Advocate, for the petitioner.
Mr. Gaurav Goel, Assistant A.G. Haryana.
Mr. Sharad Aggarwal, Advocate, for,
Mr. Sagar Deswal, Advocate, for respondent No. 4.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner seeks the writ of certiorari for quashing the impugned order dated 30.7.2010 (Annexure-P-1) and the mandamus, directing the respondents to count the previous service rendered by the petitioner in Government Girls Senior Secondary School, Hisar (respondent No. 3 herein) and Government Aided Jat High School, Hisar (respondent No. 4 herein) for the purpose of pension and other retiral benefits.

The petitioner was appointed as a Lab Attendant on adhoc basis in Government Girls Senior Secondary School, Hisar, on 20.4.1972. His services as a Lab Attendant were regularized on 14.7.1973. The petitioner worked as a Lab Attendant in the said Government Girls Senior Secondary School, Hisar, till 5.7.1984. He claims that he had applied through proper channel in the Jat High School, Hisar. The petitioner was appointed on 6.7.1984 as a Math Master in Jat High School, Hisar, (a Government aided

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privately managed school), which was against an unaided post. He continued to work as such. He was later on appointed against the aided post of Math Master on 4.9.1988 and ultimately retired from service on 31.1.2006. Now, the petitioner wants that his service rendered against unaided post as a Math Master in Jat High School, Hisar, from 6.7.1984 to 3.9.1988 should be counted towards grant of pensionary benefits and his service as a Lab Attendant in Government Girls Senior Secondary School, Hisar, from 20.4.1972 to 5.7.1984 should also be counted for the grant of pensionary benefits.

The State, in the reply, has taken the stand that the petitioner had left the job of Lab Attendant in Government Girls Senior Secondary School, Hisar, without any intimation and without the permission of the competent authority and joined as Math Master against un-sanctioned/un-aided post in Jat High School, Hisar, which was a privately managed Government aided school on 6.7.1984. The petitioner withdrew his GPF on 14.2.1985. The petitioner was appointed by the said Jat High School, Hisar, against sanctioned post only on 4.9.1988 i.e. after a gap of more than four years. It was pleaded that as per the Haryana Aided Schools (Security of Service) Act, 1974, his service against the aided post is to be counted for the purpose of pension and that since there was a gap of more than four years in his service in the Government Girls Senior Secondary School, Hisar, and against the aided post in the Jat High School, Hisar, therefore, the same cannot be counted.

I have heard the learned counsels for the parties and have also carefully gone through the file.

The petitioner has not placed on file any document to show that

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he had applied through proper channel for the post of Math Master in the Jat High School, Hisar. The perusal of the impugned order dated 30.7.2010 (Annexure-P-1), rejecting the claim of the petitioner, shows that on verification, it was found that the petitioner left the job of Lab Attendant in Government Girls Senior Secondary School, Hisar, without any intimation and joined as Math Master in Jat High School, Hisar, against un-aided and un-sanctioned post, where he worked till 3.9.1988. As per Rule 5 (4) of the Haryana Aided Schools (Special Pension and Contributory Provident Fund) Rules, 2001, only the service rendered on aided sanctioned post in another aided school in the State of Haryana is to be computed for the purpose of pension. Under Rule 5 (6) of the Haryana Aided Schools (Special Pension and Contributory Provident Fund) Rules, 2001, the interruption of spell of service under the same management may be condoned with the approval of Director and be treated as qualifying service for retiral benefits. However, under the proviso, it is provided that if interruption is caused by the resignation, dismissal or removal from service etc., the same shall not be condoned. Here, the petitioner had left the service in the Government Girls Senior Secondary School, Hisar, without any intimation and there is no proof to the effect that he had applied through proper channel. Therefore, the service rendered in the Government Girls Senior Secondary School, Hisar, and against the un-aided post in Jat High School, Hisar, cannot be counted for computing his pension. Consequently, the present writ petition is dismissed.

(KULDIP SINGH)
JUDGE

18.10.2016

sjks

Whether speaking / reasoned	:	Yes
Whether Reportable	:	No