

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

**CWP No.10817 of 2014
Date of Decision:- 11.04.2016**

Hari Singh Shastri

....Petitioner

Versus

Director of Higher Education, Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. P.L. Verma, Advocate,
for the petitioner.**

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioner in the present petition has been given retrial benefits by counting his service from 03.10.1989 to 31.05.2011 while working in M.L.N. College, Radaur, District Yamuna Nagar. The dispute in the present case is with respect to the period from 08.08.1980 to 30.09.1989, rendered by the petitioner as Sanskrit Teacher at Government High School, Badshapur, District Gurgaon. After resigning from the school, he was appointed as Sanskrit Lecturer in M.L.N. College, Radaur, District Yamuna Nagar on 03.10.1989.

Upon notice, written statement has been filed on behalf of respondent No.1, in which, it has been stated that the Government of Haryana, has taken a sympathetic view to the aspirations of the employees

appointed against the aided sanctioned posts in the Privately Aided Colleges, introduced the special pension scheme called as the “Haryana Affiliated Colleges (Pension and Contributory Provident Fund) Rules, 1999”. Further it has been stated that the petitioner has been given retrial benefits by respondent No.3 for the period w.e.f. 03.10.1989 to 31.05.2011.

As per Rule 6.16 C-1 (3) (a) of Punjab Civil Service Rules, Volume-II, no pension and gratuity is admissible to the government employee, who tender resignation from his post or is removed or dismissed from government service. Further as per Rule 4.19 (1) (a) of Punjab Civil Service Rules Volume-II, on resignation from government service and it entails the forfeiture of past service. The case of the petitioner is not covered under the Pension Rules of 1999, Sub-rule 6(v) as mentioned in para No.2 of the preliminary submission of the reply. Moreover, for the previous period, the CPF of the petitioner had not been deducted, hence, the previous period cannot be counted for pensionary/retiral benefits.

Learned counsel for the petitioner has argued that the petitioner was initially appointed as Sanskrit Teacher at Government High School, Badshapur, Gurgaon and as there was no provision for CPF. therefore, no CPF was deducted from his salary.

In a separate written statement filed by respondent No.3, the stand taken is that the case of the petitioner is not covered as per the notification issued by the Department of Higher Education dated 27.07.2011. The relevant notification is as under: -

“19.1 Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other scientific/professional Organizations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICMR, DBT, etc.

funded by the State/Central Government should be counted for direct recruitment and promotion under CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature these posts are described as per Appendix III – Table No.II provided that:

- a. The essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor as the case may be.*
- b. The post is/was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor (Reader) and Professor.*
- c. The candidate for direct recruitment has applied through proper channel only.*
- d. The concerned Assistant Professor, Associate Professor and Professor should possess the same minimum qualifications as prescribed by the UGC for appointment to the post of Assistant Professor, Associate Professor and Professor, as the case may be.*
- e. The post was filled in accordance with the prescribed selection procedure as laid down in the Regulations of University/State Government/Central Government/Concerned Institutio, for such appointments.”*

Perusal of the above-said notification shows that the essential qualifications of the post held earlier were not lower than the qualifications prescribed by the UGC for Assistant Professor and the post should be in an equivalent grade. In the present case, the petitioner was working as Sanskrit Teacher at Government High School, Badshapur, District Gurgaon and after resigning, he joined as Sanskrit Lecturer with respondent No.3. The post of Sanskrit Teacher in a school is lower grade as per Clause (b) of 19.1 of notification dated 27.07.2011 than Assistant Professor.

In view of above, the case of the petitioner is not covered by the above-said notification, therefore, his services were not counted for the purpose of pensionary benefits. Accordingly, the present petition is hereby dismissed.

April 11, 2016
naresh.k

(RITU BAHRI)
JUDGE