

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

**Civil Writ Petition No.15753 of 2013 (O&M)
Date of Decision: 04.11.2016**

Sukhwant Singh Gill

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Gagneshwar Walia, Advocate for the petitioner.

Mr. Vaibhav Sharma, Deputy Advocate General, Punjab
for the respondent(s)/State.

JASWANT SINGH, J. (Oral)

The petitioner was recruited as Lecturer in Political Science and worked against the aided post from 22.08.1970 to 31.05.1974 with Guru Nanak College, Kala Afgana, Gurdaspur (respondent No.3), a Govt. Aided Private College. The said College was taken over by the Punjab Government on 01.06.1974, pursuant to a Gift Deed dated 27.05.1974 (**Annexure R-1**), executed between the Management of the College and the Government. The petitioner, in compliance of the terms of Clauses 5 and 7 of the Gift Deed (**R-1**), was treated as a fresh entrant in the government service as Lecturer in Political Science. He is stated to have retired on 31.05.2004 on attaining the age of superannuation from the same rank.

The claim of the petitioner is for counting of the service rendered with the Aided College towards grant of pensionary benefits. The

claim has been rejected vide impugned order dated 18.05.2012 (**Annexure P-5**) on two grounds:- **(i)** that as per the terms of the Gift Deed, the previous service of the petitioner was not to count towards grant of any benefit and he was accordingly treated as fresh entrant in government service **(ii)** that the previous service with the Aided Colleges was not pensionable.

Learned Counsel for the petitioner had relied upon the Punjab Privately Managed Affiliated and Punjab Government Aided Colleges, Pensionary Benefits Scheme, 1996 (for short “1996 Scheme”) to urge that the previous service in the Aided College had become pensionable under the 1996 Scheme, therefore, was liable to be counted for grant of pensionary benefits. Secondly, it is argued that the judgment of Hon'ble Supreme Court reported as **State of Punjab Vs. Dev Dutt Kaushal, AIR 1996 SC 85** relied upon by the Authorities to deny the previous claim on the basis that the same was not part of the terms of the Gift Deed is distinguishable as at the relevant time of rendering the decision, the 1996 Scheme was not in operation.

On the other hand, learned State Counsel submits that the aforesaid 1996 Scheme was itself repealed by the promulgation of the Punjab Privately Managed Affiliated and Punjab Government Aided Colleges, Pensionary Benefits Scheme, 1996 (Repeal) Act, 2012, whose vires were upheld by the Division Bench of this Court rendered in **CWP No.7398 of 2013, titled as 'Punjab Aided Colleges Retired Employees Association and another Vs. State of Punjab and others, decided on 12.02.2015'**. That apart, he submits that the ratio of the decision in Dev Dutt Kaushal's case (*supra*) is fully applicable to the facts of the present case.

After hearing learned Counsel for the parties, this Court is of the opinion that the petition is devoid of any merits. Firstly, with the upholding of the vires of the aforesaid Act of 2012 repealing the 1996 Pension Scheme admissible to the employees of the Aided Colleges, the entire basis of the subsequent judgments allowing such benefit even after distinguishing the judgment in Dev Dutt Kaushal's case (*supra*) is removed. Therefore, the claim for counting the previous service cannot be entertained. No doubt, it is submitted that the SLP against the aforesaid decision dated 12.02.2015, passed by Division Bench of this Court, is stated to have been filed before the Hon'ble Supreme Court, however, concededly, there is no stay operating against the same judgment. Hence, this Court finds no basis for allowing the claim of the petitioner.

There is another aspect to the case. The petitioner retired in the year 2004 and there was cession of the relationship of the master and servant between the petitioner and the Government except to the limited extent of award of admissible pension. The petitioner has raked up the issue of counting of previous service by filing the petition in the year 2012, after the unexplained and inordinate delay of eight years from the date of retirement. It will be highly debatable whether it will constitute a recurring cause of action.

In view of the above, the present petition stands dismissed.

November 04, 2016

Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>