

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

CWP No.16824 of 2013 (O&M)

Date of decision:05.08.2016

Bhim Singh

... Petitioner

Vs.

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. B.S. Rathee, Advocate for the petitioner.

Mr. Ravi Pratap Singh, AAG, Haryana.

...

TEJINDER SINGH DHINDSA, J.

The uncontroverted facts are that the petitioner was initially appointed as SS Master on 06.07.1979 in Jat H.M.A.S. High School, Rohtak i.e. a government aided school. He served in such aided school till 30.12.1986 forenoon. Petitioner joined government school as a Math Master on 30.12.1986 itself. His services were regularized by the State Government on 01.01.1991. Petitioner retired on 30.09.2006 upon attaining the age of superannuation.

Challenge in the instant petition is to the order dated 12.07.2013 (Annexure P-9) issued by the Director General, Elementary Education, Haryana, whereby claim of the petitioner for counting his previous service rendered in an aided school i.e. from 06.07.1979 to 30.12.1986 for grant of pensionary/retiral benefits has been declined.

Perusal of the impugned order at Annexure P-9 discloses the basis for rejection of the claim of the petitioner. It has been stated that under the Haryana Aided (Pension and Contributory Provident Funds) Rules, 1999, such Rules are to apply only to employees who are appointed

against government aided sanctioned post on or after 11.05.1998 or to such employees who were working in aided sanctioned post immediately prior to 11.05.1998 and continued to work thereafter. Accordingly, the cut off date i.e. 11.05.1998 has been taken into reckoning to deny to the petitioner benefit of his past service rendered in a State aided school and by contending that he had resigned from such school much prior to the cut off date and had joined government service.

Identical issue and controversy came to be examined by a Coordinate Bench of this Court in CWP No.16817 of 2007 decided on 22.07.2009 and wherein the following observations were made:

“It is, thus, to be seen whether this service now can be excluded for the purpose of grant of pension. If the petitioner had continued to serve on an aided post in a private school, he would have been entitled to count his service rendered therein for the purpose of pension and other retiral benefits. Would that service be lost to him for the purpose of pension because he has subsequently gone on to join a Government job, which is again a pensionable one? If the result is allowed to operate in this manner, it will be unfair, inequitable and harsh. The ratio of law as laid down in the case of Harnandan Singh, Charan Singh and Chander Sain (supra) in this background would apply to the facts of the present case. Similar view has clearly been taken by the Division Bench of Rajasthan High Court in the case of Jawahar Lal Sharma Supra. In fact, the Division Bench of this Court in Charan Singh's case (supra) has observed that service rendered by a teacher in private school receiving aid is made pensionable and as such this service can not be ignored for grant of pension. The same is the situation here. Accordingly, I am of the view that the petitioner has made out a case for counting his service rendered on aided post in a private school for the purpose of pension and retiral benefits.

The writ petition is, therefore, allowed and the respondents are directed to count the entire service rendered by the petitioner in a privately managed school and in the Government School for the purpose of pension and retiral benefits. The needful be done within a period of three months from the date of receipt of copy of this Order. All amounts due to the petitioner be released within this period, failing which the petitioner will be entitled to interest @ 6% per annum from the date it is due to the date of payment.”

The judgment in CWP No.16817 of 2007 has thereafter been affirmed by the Letters Patent Bench in LPA No.162 of 2010 decided on 08.02.2010. Thereafter the matter having been carried to the Hon'ble Supreme Court by the State Government, even SLP (civil) No.13909 of 2010 has been dismissed on 12.05.2010.

The claim of the petitioner is clearly covered in his favour in terms of judgment dated 22.07.2009 rendered by this Court in CWP No.10687 of 2007.

Accordingly, the present petition is also allowed in terms of the aforesaid judgment. Impugned order dated 12.07.2013 (Annexure P-9) is set aside.

Petitioner is held entitled to same relief as granted in CWP No.16817 of 2007.

Petition is allowed.

05.08.2016

harjeet

(TEJINDER SINGH DHINDSA)

JUDGE

i) Whether reasoned/speaking? Yes

ii) Whether Reportable? Yes