

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 14315 of 2016 (O&M)

Date of Decision: 01.09.2016.

Hawa Singh

--Petitioner

Versus

State of Haryana and others

--Respondents

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

Present:- Mr. Naveen Singh Panwar, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

Petitioner was appointed on a regular basis on 12.4.1999 as J.B.T Teacher with the Department of School Education, State of Haryana. Apparently, the petitioner prior to his selection and appointment on 12.4.1999 had served on the same very post on 89 days basis from 8.1.1998 to 16.12.1998.

Claim of the petitioner for fixation of pay and other benefits for the period w.e.f. 16.12.1998 to 12.4.1999 has been rejected vide order dated 2.2.2016 (Annexure P-7).

Resultantly the instant writ petition.

Counsel for the petitioner has been heard at length.

Perusal of the impugned order would reveal that rejection of the claim of the petitioner is by relying upon Rule 4.23 of the Punjab Civil Services Rules, Vol. II (as applicable to the State of Haryana).

Under Rule 4.23 an interruption in service either between two spells of permanent or temporary service or between a spell of temporary service and permanent service is liable to be condoned subject to the rider that the service preceding the interruption should not be less than five years

duration.

There is no dispute as regards the fact that the previous service rendered by the petitioner on 89 days basis is less than five years. Rule 4.23 as such, has been rightfully invoked by the respondent authorities in declining the claim of the petitioner.

On the previous date of hearing i.e. on 11.8.2016 counsel for the petitioner had sought time to place on record relevant documents/material to substantiate an assertion made that other employees, who are identically situated and who had also rendered service on 89 days basis prior to their regular appointment and for a period less than five years, their break in service/interruption between two spells of service has been condoned by the respondent department and consequential benefits have been released.

During the course of resumed hearing today counsel states that no such instances have been found out and as such he is not in a position to refer and advert to any document.

As a measure of last resort submission raised today is that the petitioner had been removed illegally from service by the Director, Secondary Education, Haryana on 16.12.1998 and as such the break period i.e. w.e.f. 16.12.1998 to 12.4.1999 is liable to be condoned and to be treated towards continuity in service for all intents and purposes. Even such submission has been noticed only to be rejected. The disengagement of the petitioner on 16.12.1998 was never subjected to challenge by the petitioner. It is not even a subject matter of challenge in the instant petition. Even if it was, it would be clearly a highly belated challenge and would never find favour.

No infirmity as such, is found in the impugned order dated 2.2.2016 (Annexure P-7).

Petition, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

01.09.2016

lucky

Whether speaking/reasoned: Yes

Whether Reportable: No