

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 20658 of 2013

Date of Decision : February 08, 2016

Sneh Lata Jain Petitioner
vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Vivek Sharma, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

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DEEPAK SIBAL, J. :

The petitioner, who served as a Craft Teacher in the Panchayat Samiti, Sadoudhra, has approached this Court seeking directions to be issued to the respondents to grant her pension and other retiral benefits. She further prays for the grant of benefit of pay revision in the pay scale of ₹ 5200-20200 w.e.f. 01.01.2006. Interest is also claimed on the retiral benefits as also on the claimed arrears of pay.

It is the admitted position that the petitioner was serving in the

Panchayat Samiti, Sadoudhra as a Craft Teacher. It is further not disputed that her services were never provincialized nor was she ever absorbed as a Government employee. That being so, no pension/retiral benefits can be claimed by her from the State of Haryana, as held by the Apex Court in **Civil Appeal No. 4864 of 2009 – Vidyawanti vs. State of Haryana and others**, decided on **29.04.2010**, as under :-

“The appellant was appointed as a Craft teacher on 13.8.1968 in a Panchayat Samiti in the State of Haryana. Her services were regularised on 21.9.1976 and she retired from service on 31.3.1994. Her request for payment of pension was rejected by the respondents. She filed a suit for a declaration that she was entitled to pensionary benefits. The trial court dismissed the suit. The appeal and second appeal filed by the appellant were also dismissed. The courts have held that she is not entitled to pension or gratuity as her post (Craft teacher) was not provincialised by the Government. The High Court also held that the post of Craft Teacher was not covered by the Punjab Panchayat Samitis and Zila Parishads Services Rules 1965 ('Rules' for short). The said

judgment is challenged in this appeal.

2. *Learned counsel for the appellant submitted that the finding of the High Court that the post of Craft Teachers was not covered under the Rules was incorrect. According to him, the Rules were amended on 26.12.1976 whereby the Craft teacher was also included in the list of posts to which the Rules applied.*

3. *Even if the Rules applied to the post of Craft teacher, the question will be whether the appellant will be entitled to pension. The Rules enumerated the posts in the service, the scales of pay applicable, the method of recruitment, probation, seniority and retirement. Rule 12 provides that a member of service shall retire on attaining the age of 58 years. The Rules do not provide that the employees governed by the Rules will be entitled to pension on their retirement. The circular/instructions dated 22.11.1991 of the State Government (Panchayat Raj Department) relied upon by the appellant merely states that employees of District Boards, Zila Parishad and*

Panchayat Samitis who have been absorbed in Government service may be given the benefit of previous service for purposes of pension, family pension and gratuity. The appellant has not been able to show that her services were absorbed by the Government or that her post was provincialised. The concurrent finding of fact does not call for interference.”

The case of the petitioner is identical to the case of the appellant before the Apex Court in Vidyawanti's case (*supra*) as the petitioner also served as a Craft Teacher in a Panchayat Samiti in the State of Haryana and claimed pension like her. After considering the entire matter, the Apex Court has authoritatively denied the same and thus, sealed the petitioner's right qua the first prayer made by her.

So far as the claim of the petitioner for the grant of pay scale of ₹ 5200-20200 w.e.f. 01.01.2006 is concerned, the same also cannot be granted. The petitioner is admittedly an employee of Panchayat Samiti, Sadoudhra, her services have not been provincialized and that she was never absorbed by the State Government. Thus, for claiming a higher pay scale, her claim lies with her employer i.e. Panchayat Samiti, Sadoudhra. A perusal of the array of parties shows that the Panchayat Samiti, Sadoudhra has not been joined as a respondent to the petition. In the absence of her

employer being a party, her claim for the grant of pay scales w.e.f. 01.01.2006 cannot be granted.

Even otherwise, a perusal of the record shows that through Resolution No. 6 dated 26.01.2010, the Panchayat Samiti, Sadoudhra had rejected the petitioner's claim for the grant of the pay scale of ₹ 5200-20200 w.e.f. 01.01.2006. What to talk of laying a challenge to the aforesaid Resolution, the same has not even been appended with the present petition.

Even otherwise, the present petition has been filed in September 2013 i.e. after over 3½ years of the passing of the Resolution rejecting the petitioner's claim.

Viewed from different angles, no merit is found in the present petition and resultantly, the same is ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

February 08, 2016
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