

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

204

CWP No.24514 of 2012

DATE OF DECISION: 09.11.2016.

Mehar Singh Sandhu

....Petitioner.

Versus

State of Punjab and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr. R.S. Pathania, Deputy Advocate General, Punjab.

KULDIP SINGH, J.(Oral)

Petitioner was initially appointed as a Math Master on Adhoc basis on 12.01.1979. His service was regularized w.e.f. 01.10.1980. He was promoted as Lecturer (school cadre) in Maths on 11.08.1994. On 05.09.2004 on account of his valuable services rendered to the Community as a teacher of outstanding merit, the petitioner was given State Award by Government of Punjab (Annexure P-1). The petitioner was to retire on 30.06.2011 after attaining the age of superannuation of 58 years. Before the retirement of the petitioner, vide letter dated 03.02.2011 (Annexure P-2), the department itself requisitioned the case for extension of one year in service to the State/ National Awarded employees. Vide order Annexure P-3, the petitioner was granted extension of one year in service from 01.07.2011 to 30.06.2012. This was done keeping in view the fact that petitioner Sh. Mehar Singh Lecturer, Government-in-Service, Training Centre, Faridkot whose retirement was due on 30.06.2011, was granted said

Award by the Punjab Government on 05.09.2004 in accordance with the Government instruction dated 19/29/79-2 Edu-4 (New Cell)/2290 dated 09.10.1989 and 4/10/1999-4E6/21798-1999 dated 21.08.2000.

Subsequently, vide order dated 09.02.2012/27.02.2012, the said extension in service was converted into re-employment. The order Annexure P-4 was passed on the basis of instructions dated 09.10.1989 (Annexure P-7) vide which sanction for grant of re-employment in service for one year after superannuation, was accorded. The petitioner has challenged the order dated 09.02.2012 (Annexure P-4) and instructions dated 09.10.1989 (Annexure P-7).

I have heard learned counsel representing the petitioner and learned counsel representing the State.

The perusal of the facts shows that on account of meritorious services, the petitioner was granted the State Award. Now, on the basis of the said Award, the petitioner was granted extension in service vide order dated 14.10.2011 (Annexure P-3). In the said order, the instructions dated 09.10.1989 (Annexure P-7) are also mentioned. The relevant portion of Annexure P-7 is reproduced as under:-

“Sanction of the President of India is hereby accorded to the grant of one year re-employment in service after superannuation to teachers of Punjab Education Department who are winners of State award, if they are physically and mentally fit, purely on the basis of the re-merit as adjudged by their winning of the State Award.

The State Awardees who seek re-employment may be asked to deposit the principal amount of the award money received by them. An undertaking in writing may be taken that

interest at such rate as may be decided by Government, will also be payable by the awardee while principle amount of award will have to be recovered from the awardee initially under this decision.”

In the present case, the petitioner has challenged the validity of the instructions at (Annexure P-7). He has also challenged the order (Annexure P-4) on the ground that once the extension of service is given it cannot be converted into the re-employment. The extension of service has several benefits like increment and other retiral benefits, whereas on re-employment, the employee is not entitled to increment and retiral benefits for the period of re-employment and the employee work on the last pay granted. Taking into consideration the instructions, I am of the view that the instructions are wholly unreasonable. A teacher is granted extension on account of meritorious services. The instructions Annexure P-7 show that if said State Awardee seeks re-employment, he can asked to deposit the Award money received by him alongwith interest, which virtually means that the benefit of Award will be withdrawn. This on the face of it, is unreasonable. The benefit once given through the State Award cannot be withdrawn merely on account of the fact that the re-employment has been given. In the present case, the petitioner himself did not apply for extension. The letter Annexure P-2 shows that the Office of Director, General School Education, Punjab had addressed a communication to all the District Education Officers for issuance of list of extension of service of the State/ National Award awarded employees. It was on the basis of this list that the extension was granted. Therefore, instructions Annexure P-7 in this case otherwise are not attracted. I am further of the view that once the extension

is granted in the exercise of the executive powers, the order cannot be amended subsequently which in this case has been done after 4 months, so as to change extension of service to the re-employment. Learned counsel submitted that due to the order of extension, the petitioner could not apply for release of the retiral benefits. He could apply for retiral benefits only after the impugned order Annexure P-4 was passed. He suffered a financial loss also. This is unfair on the part of the State. Thus, the instructions Annexure P-7, which withdraws the benefit of the State Award, being contrary to the public policy, are hereby quashed.

The order Annexure P-4 converting the extension of service into re-employment also stands quashed.

Consequently, it is held that petitioner is deemed to have retired with the extended service on 30.06.2012 and he will be entitled to all the service and retiral benefits accordingly. The respondents are directed to recalculate the service and retiral benefits and release the same to the petitioner within a period of three months from the date of receipt of copy of the order along with interest @ 9% per annum from the date of the benefits became due.

Accordingly, the petition is allowed.

(KULDIP SINGH)
JUDGE

09.11.2016.
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Whether Speaking/reasoned	:	Yes
Whether Reportable	:	No