IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21795 of 2014 (O&M)
Date of Decision: 26.9.2016

Professor Vinod C. Nanda and another .... Petitioners

vs.

Vice Chancellor, Panjab University and another .... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.S.P.S. Mann, Advocate
for the petitioners
None for the respondents

Kuldip Singh J.(Oral)

Both the petitioners joined as Readers in Mathematics Department in the Panjab University on 12.4.1964 and 2.7.1966 respectively. Both of them were eventually retired as Professor in Mathematics Department on 31.8.1992 and 31.10.1994 respectively. The Panjab University Employees (Pension) Regulations, 1991 (in short 'the Regulation') which was framed under Section 31(2)(e) of the Panjab University Act, 1947 (as amended from time to time). Under the said scheme, a retired employee, on deposit of CPF along with interest, is entitled to the benefit of said scheme. Rule 1.8 (e) provides as under:-

> *"The employees who retired prior to 24-10-2005 may, if they so desire, elect to be governed by these Pension Regulations, subject to the condition that they refund the University's C.P. Fund contribution, including interest thereon, as received by them from the University for being credited to the University Pension Fund (Corpus). The University would*

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neither charge any interest on this amount of the University share of C.P. Fund received by the retiree for the period from the date of his retirement upto the date of his joining the Pension Scheme nor would pay any arrear of pension. The pension may be made available to the employees from the date they deposit their University share of C.P. Fund, including interest thereon."

It shows that the benefit of pension will be available from the date the employee deposits the University share of CPF, including the interest thereon. According to the petitioners, petitioner No.1 had deposited the said amount vide two separate cheques amounting to Rs.1,80,000/- and Rs.1,35,435/- dated 9.6.2006 and petitioner No.2 paid the same vide bankers cheque No.853112 of 14.6.2006 for Rs.3,96,303/-.

However, the pension was not settled till 2012. Petitioners claim that they are entitled to the benefit of Rules 3.9, which reads as under:-

3.9. "An employee appointed to a service or post, shall be eligible to add to his service qualifying for superannuation pension (but not for any other pension), the actual period, not exceeding one fourth of the length of his service, or the actual period by which his age at the time of recruitment exceeded twenty five years, or a period of five years, whichever is less, if the service or post to which he is appointed is one-

(a) for which post-graduate research or specialist qualification or experience in scientific, technological or professional field is essential, and

(b) to which candidates of more than twenty five years of age are normally recruited.

Provided that this concession shall not be admissible to an

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employee unless this actual qualifying service at the time he quits University service is not less than ten years."

It further comes out from the short reply of the respondent that on 15.5.2012, the Vice Chancellor passed the order that the benefit of five year service shall be implemented prospectively. The Vice-Chancellor also constituted a Committee to frame the exact provisions to allow implementation of Regulation 3.9. The Committee held the meeting and took the decision on 28.5.2012, the same was approved by the Vice Chancellor vide instructions dated 18.6.2012. The extract from the said letter reads as under:-

" The Vice Chancellor approved the proceedings of the Committee constituted with respect to addition of five years to the qualifying service for Pension under Regulation 3.9 of P.U. Pension Regulation and allowed the benefit of special addition in qualifying service for pensionary benefits to an employee who has retired from a post in the University for which the following are essential qualification:-

1. Post-Graduate Research or Specialized qualification.

2. Experience in Scientific, technological or Professional field.

This benefit shall be allowed only to a candidate:

(i) Who at the time of appointment has attained the age of 25 years and the essential requirements of such posts requires Post-Graduate Research or specialized qualification or experience in Scientific Technology or Professional Field.

(ii) The benefit in terms of years which shall be added to the qualifying service shall depend upon the actual Post-Graduate Research or experience which a candidate has at the time of employment. It shall be decided on case to case basis depending upon the

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> *terms and conditions of the Advertisement, Post-Graduate Research, experience etc. of the candidate at the time of appointment."*

The petitioners claim that said instructions cannot be applied retrospectively i.e. from the year 2006 when they had deposited amount of CPF and will apply prospectively. Therefore, under Rule 3.9, they are entitled to benefit of addition of five years service (ten half years service) and entitled to the full pension of 66 half years or more from the date they deposited the amount in terms of Rule 1.8 (e).

I have heard learned counsel for the petitioner. None appeared on behalf of the respondents to assist this Court, despite the earlier call and the counsel being notified on the computer system of this Court. Therefore, this Court has considered the case of the respondents and gone through the documents.

The Rule 1.8 (e) makes it clear that the pension is made available to the employee from the date they deposited the University share of CPF amount, including the interest thereon, which means that the benefit of pension is to be available from 9.6.2006 in case of petitioner No.1 and from 14.6.2006 in case of petitioner No.2. Now, the question would arise whether the said Regulation could be amended by Vice Chancellor by passing an order dated 15.5.2012 constituted a committee to frame exact provisions to allow implementation of Regulation 3.9 and subsequent notification approving the proceedings dated 28.5.2012 of the Committee on 18.6.2012.

I am of the view that once the benefit is given in terms of the Regulation, the same could not be amended by the Vice Chancellor by passing an executive order. For that purpose, the amendment to the

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Regulations of 1991 is to be made in accordance with rules. Assuming that the Committee was formed and had amended the Rules and same were approved by the Vice Chancellor on 18.6.2012, the said amendment is to operate prospectively and not retrospectively.

Consequently, the petitioners who had deposited their share of CPF of the University on 9.6.2006 and 14.06.2006 are entitled to benefit of the pension after adding five year service (ten half years service) in terms of Rule 3.9 of Rules of Regulations of 1991.

Consequently, the present petition is allowed. Respondents are directed to compute the pension of the petitioners and release it to them from the above noted dates. Respondents shall also pay interest @ 9% per annum on the arrears of the pension. The necessary orders fixing the pension be passed within two months from the date of the receipt of a certified copy of the judgment and the amount be released immediately, thereafter, within 30 days.

26.09.2016 **(Kuldip Singh)**
gk **Judge**

Whether speaking / reasoned Yes
Whether reportable No

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