

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

CWP No.24686 of 2013 (O&M)

Date of decision: 13.06.2016

Dr. Surat Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Senior Advocate,
with Ms. Kiran Rathee, Advocate,
for the petitioner.

Mr. Samarvir Singh, DAG, Haryana,
for the respondent.

Ritu Bahri, J.

The petitioner is seeking a writ of certiorari for quashing the order dated 21/26.08.2013 (Annexure P-8), whereby his claim for grant of pension and other retiral benefits has been rejected. Further direction is sought to be issued to the respondent to grant pension and other retiral benefits to the petitioner considering the qualified service from 19.11.1984 to 30.04.2013.

Dr. Surat Singh-petitioner was appointed as Research Associate on 19.11.1984 in National Institute of Rural Development, Hyderabad, which was an institute of Government of India. In the month of August, 1988, he was promoted as Assistant Director. On 29.06.2001, he was appointed as Director by way of deputation in Haryana Institute of Rural Development (HIRD) and ultimately, was absorbed on 14.01.2005 (Annexure P-1). At the time of absorption, the petitioner had given an affidavit (Annexure P-2) to the effect that his pay and terms & conditions of service will be governed by the Haryana Government, Development &

Panchayat Department. The petitioner retired from service on 30.04.2013 as

per retirement order Annexure P-3. Thereafter, the petitioner approached this Court with the grievance that he was entitled to be retired at the age of 60 years instead of 58 years. However, the petition filed by the petitioner was dismissed. Against that order, he filed LPA No.796 of 2013 (Annexure P-4), which was disposed of on 26.04.2013 by giving liberty to the petitioner to make a representation before the competent authority for counting his previous service towards pension. Consequently, the petitioner made a representation 15.05.2013 (Annexure P-5) stating that his previous service rendered in Government of India for the period from 19.11.1984 to 13.01.2005 be considered as a qualified service for the purpose of pension and other retiral benefits. However, the claim of the petitioner has been rejected vide order dated 21/26.08.2013 (Annexure P-8).

Reference has been made to the Haryana Government Instructions dated 22.08.1988 (Annexure P-7), wherein it has been decided that the services rendered by an employee in Central Autonomous Bodies/Central Government shall be considered as a qualified service for the purpose of pension and other retiral benefits. The Central Government has deposited pro-rata pension and pro-rata retirement gratuity with the Government of Haryana vide order/letter dated 19.07.2005 (Annexure P6).

Impugned order dated 21/26.08.2013 (Annexure P-8) is being sought to be quashed on the ground that under Rule 3.17 of the Punjab Civil Service Rules, Vol. II (for short 'CSR'), the service rendered by the petitioner in the Central Government w.e.f. 19.11.1984 to 13.01.2005 is to be counted as qualified service for the purpose of pension and other retiral benefits considering his total service from 19.11.1984 to 30.04.2013.

In the written statement filed by the respondent, appointment of

absorption on his own request in Haryana Institute of Rural Development (HIRD) is admitted. However, his absorption in HIRD was on the following terms and condition:-

1. that his seniority in this department will be fixed from the date of absorption;
2. that his absorption will be effective from the date of acceptance of his technical resignation;
3. that his pay and other service conditions will be governed by service rules of the Haryana Development and Panchayats Department (Group-A) Rules, 1988 applicable to him. However, his pay will be protected which he would be drawing on the date of absorption; and
4. that he will not claim any retiral benefits of past service in the Haryana Institute of Rural Development.

As per respondent, the petitioner gave an affidavit (Annexure R-1) by accepting the aforesaid terms and conditions of his appointment and thereafter, joined his duties w.e.f. 14.01.2005. The order passed by the Division Bench of this Court in LPA No.796 of 2013 (Annexure P-4) is admitted. While passing the impugned order (Annexure P-8), it has been observed that pro-rata retiral benefits i.e. pension, gratuity, leave encashment, GIS etc. amounting to Rs.12,50,750 and Rs.507622/- have already been paid by the NIRD, Hyderabad and was deposited in the account of Director, HIRD, Nilokheri and thereafter, vide cheque No.356146 dated 03.05.2006, the said amount was issued by the Institution in favour of the petitioner. Thus, pro-rata retiral benefits paid by the NIRD, Hyderabad stands disbursed to the petitioner. It was further stated that the said pro-rata retiral benefits had not been deposited in the account of Haryana Government. The petitioner had rendered only 8 years and 3 months' service in HIRD, Nilokheri, which was less than the qualifying service for the purpose of pension under the Pension Scheme as per rules applicable to the

by the Finance Department as per Rule 6.16 (2) of SCR and was rejected as he had not completed his 10 years' regular qualifying service and was not entitled to pension as per rules applicable to the Haryana Government Employees. Finally, it has been submitted that the claim of petitioner was rightly rejected by the competent authority vide impugned order dated 21/26.08.2013 (Annexure P-8).

Heard, counsel for the parties.

The petitioner had been absorbed on his own request in Haryana Institute of Rural Development (HIRD) on 14.01.2005. As per the Haryana Government Instructions dated 22.08.1988 (Annexure P-7), the services rendered by an employee in Central Autonomous Bodies/Central Government shall be considered as qualifying service for the purpose of pension and other retiral benefits. However, these instructions were further clarified vide instructions dated 19.07.2011. Clarification No.4, which is relevant in this case, is reproduced as under:-

“4. It is further clarified that the employees who entered into Central Government or Central Autonomous Bodies on or before 31.12.2005 and who were governed by CPF Scheme or are not governed by a Non-Contributory Pension Scheme as referred to in Para-3 above on submission of technical resignation to take up new appointment on or after 01.01.2006, cannot be allowed to join the old pension scheme under Punjab CSR Volume-II because entry to the said scheme ceased w.e.f. 31.12.2005 and no new entry can be allowed in the pension scheme under above Rules. However, such employees can seek pensionary/terminal benefits from their respective Government/Organization, if admissible under the rules of that Government/organization for the period of service rendered under that Government/organization. Remaining conditions are unchanged as prescribed in the FD's letter dated 15.02.2009. These instructions will take effect from 01.01.2006.

It has been clarified by the Government that the Old Pension Scheme under the Punjab Civil Services Rules, Volume-II is ceased w.e.f.

31.12.2005 and no new entry can be allowed in Pension Scheme under the old rules. However, a provision is made in the above clarification that the employees can seek pensionary/terminal benefits from their respective Government/Organization, if admissible under the rules of that Government/organization. The object of giving this clarification was that after 31.12.2005, no entry in the Old Pension Scheme would be made. The petitioners, in the present case, joined the Haryana Institute of Rural Development (HIRD) on 14.01.2005. At the time of absorption, the petitioner had given an affidavit (Annexure R-1) to the effect that he will not claim any retiral benefit from the Government of Haryana/HIRD with regard to his past service rendered in NIRD, Hyderabad. Moreover, he has already received pro rata retiral benefit from NIRD, Hyderabad, which has been deposited in his account vide cheque No.356146 dated 03.05.2006. After accepting the amount, he cannot seek direction to count his previous service from 19.11.1984 to 30.04.2013 as qualifying service for the purpose of pension and other retiral benefits from Haryana Institute of Rural Development (HIRD). As per clarification dated 19.07.2011, no new entry would be made in the Old Pension Scheme after 31.12.2005. Impugned order dated 21/26.08.2013 (Annexure P-8) denying the benefit of pension and other retiral benefits has rightly been passed by the competent authority because the petitioner does not have qualifying service of 10 years with Haryana Institute of Rural Development (HIRD). Therefore, his claim cannot be accepted.

No merits.

Dismissed.

(RITU BAHRI)
JUDGE

13.06.2016