

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 27338 of 2013 (O/M)
Date of decision : 1.8.2016

Dev Parkash

..... Petitioner (s)

Versus

State of Haryana and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajbir Sehrawat, Advocate, for the petitioner.

Mr. G.S. Wasu, Additional A.G. Haryana
for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner worked in the Arya Senior Secondary School, GT Road, Panipat, which is a privately managed Government Aided School. He worked against the sanctioned post of Hindi teacher for the period from 6.8.1984 to 19.11.1993,. It also comes out that on 19.11.1993, the petitioner resigned from the said post of Hindi teacher, vide resignation letter dated 19.11.1993 (Annexure-R-1), stating that on his selection as Hindi lecturer in the Government service, he resigns from the said post. The resignation was accepted on 20.11.1993. Thereafter, he joined as lecturer of Hindi in the Government Senior Secondary School, Khanpur Kalan, Sonipat, on the next day i.e. 20.11.1993. The petitioner had retired from service with effect from 30.4.2008. On 9.2.2011, the Government issued instructions for counting the service rendered in the Government aided establishments towards grant of pension and gratuity. The petitioner

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has now approached this Court by way of filing the present writ petition, praying that his service rendered in the Arya Senior Secondary School, Panipat, be counted as a qualifying service for the grant of pension and gratuity.

The State, in the reply, has taken the stand that the petitioner had resigned from his previous service, therefore, his service cannot be counted as a qualifying service for the purpose of grant of pension and gratuity etc. It was stated that under the service rules, the Government was required to pass a speaking order, which it has passed rejecting the claim of the petitioner.

I have heard the learned counsel for the petitioner, the learned State counsel and have also carefully gone through the file.

The policy of the Government dated 9.2.2011, is reproduced as under :-

“ Finance Department observes that the benefits of Pension and Gratuity has already been allowed to the employees of Govt. Aided Establishments w.e.f. 11 May, 1998. Now it has been decided that the service rendered by them in Govt. Aided establishments be considered as a qualifying service for the purpose of calculation of pension because in both these establishments those are Aided School/Colleges and Govt. School/Colleges the benefits of pension and gratuity is available under the provisions of service rules. However the same benefit will be admissible only to those employees who were covered under the service rules and are entitled to the benefit of the Pension under the provisions of the Haryana Aided Schools (Pension and Contributory Provident Fund) Rules 1999 and Haryana Affiliated Colleges (Pension and Contributory Provident Fund) Rules 1999.”

Undisputedly, a verification was sent by the Principal, Arya

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Senior Secondary School, Panipat, to the Principal, Government Senior Secondary School, Khanpur Kalan, Sonipat, on 21.9.2011 (Annexure-P-5), verifying his service from 6.8.1984 to 19.11.1993 on the sanctioned post of Hindi teacher. Thereafter, on 10.10.2011 (Annexure-P-8), another certificate was issued, stating that the petitioner worked as Hindi teacher on sanctioned post from 6.8.1984 to 19.11.1993. The service book was also sent to the Principal, Government Senior Secondary School, Khanpur Kalan, Sonipat, stating that they have no objection regarding revised pension. Vide another letter dated 12.10.2011 (Annexure-P-9), the calculation sheet was also sent by the Principal, Arya Senior Secondary School, Panipat, to the Principal, Government Senior Secondary School, Khanpur Kalan, Sonipat.

I am of the view that the resignation relied upon by the State is a technical resignation. The petitioner resigned from Arya Senior Secondary School on 19.11.1993 as Hindi teacher and joined as lecturer in Hind in the Government Senior Secondary School, Khanpur Kalan, Sonipat, the next day i.e. 20.11.1993. Otherwise, he could not leave the previous service. In this way, the case of the petitioner is covered under the policy of the Government dated 9.2.2011. These instructions were followed by another instructions of the Government dated 31.5.2011 (Annexure-R-II). The relevant extract from the instructions is as under :-

“5. The whole issue has been re-examined in the light of above mentioned facts and it has now been decided to allow benefit of past service rendered by an employee in government aided establishment before these were taken over or service rendered in aided establishment before appointment in Government Institutions.”

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This was subject to the condition laid down in the said instructions. Of course, if the conditions are laid down, the petitioner has to follow these conditions. However, the past service, rendered in the Government Aided School against the sanctioned post, is to be counted for the grant of pension and gratuity. The petitioner worked on the sanctioned post of Hindi teacher in the Government Aided School from 6.8.1984 to 19.11.1993. The said period is to be counted as qualifying service for the purpose of grant of pension and gratuity. The present writ petition is allowed on the abovenoted terms. The respondents are directed to fix the revised pension after counting his said service and pay the same within three months from the date of passing of this order with interest at the rate of 9% per annum, starting three months from the date of retirement till payment.

(KULDIP SINGH)
JUDGE

1.8.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes