

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8786 of 2013

Date of Decision : 24.09.2016

GHULAM MOHAMMAD & OTHERS

..Petitioners

Versus

PUNJAB WAKF BOARD & OTHERS

..Respondents

2.

CWP No.23741 of 2013

AHSANUL REHMAN KHAN & ANOTHER.

..Petitioners

Versus

PUNJAB WAKF BOARD & OTHERS.

..Respondents

3.

CWP No.9816 of 2014

MOHD. NAZIR RATTAN & ANOTHER.

..Petitioners

Versus

PUNJAB WAKF BOARD & OTHERS.

..Respondents

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Dinesh Kumar, Advocate
 for the petitioners
 (in all the petitions).

 Mr. S. K. Jain, Advocate
 and Mr. Akshay Jain, Advocate.
 for respondents No. 1 and 2
 (in CWP Nos. 8786 & 23741 of 2013)

 Mr. G.N. Malik, Advocate,
 for respondent No. 1 and 2
 (in CWP-9816-2014)

 Mr. R.S. Pathania, DAG, Punjab.

KULDIP SINGH, J. (ORAL)

This order will dispose of above three writ petitions bearing

CWP No. 8786 of 2013, CWP No. 23741 of 2013 and CWP No.9816 of 2014

arising out of the same facts.

CWP No. 8786 of 2013 and other connected two matters

The petitioners have challenged the impugned order vide which they were denied Death-cum-Retirement Gratuity (DCRG) and Leave Encashment. All the petitioners in the three petitions were working as teachers in Islamia Senior Secondary School, Milk Road, Malerkotla, Distt. Sangrur under Punjab Wakf Board. They retired on different dates from the year 2007 onwards. Petitioners claimed that they are governed by Punjab Wakf Regulations, 1966 and are entitled to DCRG and leave encashment. Petitioners based their claim on the basis of definition of 'employee' given in regulation 2(d) and their terms and conditions provided under regulation 53 as well as the decision taken by the Wakf Board vide Resolution No. 9 (III) dated 15.07.2006 published in the Government Gazette dated 30.01.2009 vide which the benefit of DCRG and leave encashment to the employees of Punjab Wakf Board at par with the Punjab Government was ordered to be given w.e.f. 15.07.2006.

The stand of the Wakf Board is that the Punjab Wakf Board is a charitable and religious trust and is not getting any aid from the Government. Teachers are governed by Regulation 53, whereas the services of other employees are governed by Regulation 21 to 52. The petitioners are employed on temporary basis, therefore, they cannot claim the benefit of regular employees nor their services are governed by Regulation 21 to 52, hence, they are not entitled to DCRG and leave encashment.

I have heard learned counsel for the parties and also gone through the file carefully.

The perusal of the regulation 2 (d) shows that it includes the teachers.

The definition of employee is given in regulation 2 (d) as under:-

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“Employee’ means any person in the employment of the Board and includes Imams, Mauzzans, Care-takers, Teachers, Khadims and Mujawirs”.

Regulation 53 is reproduced as under:-

Terms and conditions of service of Imams, Mauzzans, Care-takers, Teachers, Khadims and Mujawirs.- Section 68(2(e).- The provisions of regulations from 21 to 52 shall not apply to Imams, Mauzzans, Care-Takers, Teachers, Khadims and Mujawirs in so far they are inconsistent with the following provisions:-

(1) The appointing authority and the punishing authority in the case of Imams, Mauzzans, Care-Takers, Teachers, Khadims and Mujawirs shall be the Board. All appointments to these posts shall be made on the recommendation of Religious Affairs Committee.

(2) The Religious Affairs Committee will interview the candidates, test their knowledge and submit its recommendations to the Board. The Imams shall possess the following qualifications:-

(a) candidates who possess the degree of “Farighul-Tehsil” shall be classed as of Grade I.

(b) candidates who have passed “Oafva and Oadoori” or are Hafiz Oari with knowledge of

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Muslim theology, shall be classed as of Grade II.

(3) A person to be appointed as Mauzzan shall possess elementary knowledge of Massail of Namaz and Roza.

(4) A person to be appointed Khadim or Mujawir shall be “Ba-shara” be regular in the observance of Roza and Namaz be acquainted with “Fateha and Darood” and be physically fit to maintain the Dargah.

(5) All kinds of leave to Imams, Mauzzans, Care-takers, Teachers, Khadims and Mujawirs shall be sanctioned by the Secretary. The Secretary shall also make officiating arrangement, in case of any of the posts fall vacant, in consultation with the Chairman and in emergent cases he can also suspend any such employee with the approval of the Chairman. But the Secretary shall place all cases of officiating arrangement and suspension before the Board, which meets immediately after such orders”.

The perusal of above noted regulations show that in the said regulations ‘teachers’ are also included. The teachers are not otherwise defined anywhere in that regulations. The appointment letters of some of the petitioners

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on the file show that it was issued by the Secretary of the Wakf Board on behalf of the Wakf Board.

Learned counsel for the respondent has vehemently argued that the word 'teacher' used in Regulation 53 means the teacher who are imparting religious education. For this purpose, he has referred to the fact that in the said regulation, their is reference is to the Imams, Mauzzans, Care-Takers, Khadims and Mujawaris, in addition to the teachers. The said category pertained to the religious persons rendering services to the Wakf Board, therefore, the word 'teacher' is to be interpreted in the same way as the persons who are imparting religious education. I am unable to agree with the contention of the learned counsel for the respondents. Since, word 'teachers' is not defined anywhere in the regulations of the Wakf Board, therefore, it has to be given ordinary literal meaning. Therefore, it will include the teachers who are rendering services as a teacher in the schools run by or under the control of the Wakf Board. The word 'employee' include the teachers. Nowhere word teacher is qualified as the person who impart only religious education and not the teachers rendering services in the schools.

Learned counsel for the respondent has further argued that the appointment letters of some of the teachers placed on the file show that they were initially appointed on consolidated salary on temporary basis. However, it is not a denying fact that the petitioners continued rendering their services till their retirement and subsequently pay scales were also released to them and they were granted regular increments.

It being so, for all intents and purposes, they are be treated as regular employees of the Wakf Board. Since, the teachers are held to be the

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regular employees of Wakf Board, therefore, in view of the decision of the Wakf Board itself dated 15.07.2006, published in the gazette notification of the Punjab Government dated 30.01.2009, the teachers being the employees are entitled to DCRG and leave encashment w.e.f 15.07.2006.

As a result of foregoing discussion, all the petitions are allowed. The respondents are directed to release the Death-Cum-Retirement Gratuity and Leave Encashment to the petitioners from the date of their retirement alongwith interest @ 8 % per annum starting from three months from the date of retirement till payment.

24.09.2016
rimpal

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	<i>Yes</i>	<i>/</i>	<i>No</i>
<i>Whether Reportable</i>	<i>Yes</i>	<i>/</i>	<i>No</i>