

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-812-2014 (O&M)
Date of decision: 13.12.2016

Gursharanjit Singh

.....Petitioner

versus

Guru Nanak Dev University and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.H.S.Batth, Advocate for the petitioner
Mr.Amrit Paul, Advocate for the respondents

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The prayer of the petitioner is that his ad hoc service from 12.12.1991 till 13.12.1996 prior to his regularization of service should be computed for the purpose of pensionary benefits.

It comes out from the pleadings that the petitioner was appointed as ad hoc Research Assistant on 12.12.1991 and continuously worked till 11.12.1994. Then after a gap of one day, his service was extended further for a period of one year as ad hoc Research Assistant wef 13.12.1994 to 12.12.1995 (Annexure P4) and then after a gap of one day, again his service was extended for a period of one year wef 14.12.1995 to 13.12.1996 with a break period of one day i.e. 13.12.1995 (Annexure P5). Thereafter, he was appointed as regular Research Assistant wef 14.12.1996 in the same department and worked as such till 2.8.1998. From 3.8.1998 the petitioner joined in the teaching cadre on the post of Lecturer and become Associate Professor and ultimately on his own request, he was prematurely

retired on 7.3.2013 as Associate Professor. It comes out that the Punjab Civil Service Rules are applicable to the services of the employees of Guru Nanak Dev University. Rule 4.23 of the said Rules is reproduced as under:-

4.23. In the absence of a specific indication to the contrary in the service record, interruption between two spells of service rendered under the State Government shall be treated as automatically condoned, and the pre-interruption service shall be treated as qualifying service for pension purposes, except where the interruption has been caused by resignation, dismissal or removal from service or due to participation in a strike, but the period of interruption itself shall, under no circumstances, be reckoned as qualifying service for pension purposes.

Learned counsel for the respondents states that the gap of one day i.e. for 13.12.1995 has been condoned but the University has taken the interpretation that only one interruption can be condoned and not more than one interruption. In this way, the University has treated the ad hoc service of the petitioner from 13.12.1994 onwards and computed the same for pension and the period from 12.12.1991 to 12.12.1994 has been excluded.

I am of the view that the interpretation of the University is wholly illegal and contrary to the law. The rules itself shows that the interruption in two spells of the service can be condoned. It does not mean that only one interruption is to be condoned. It is normal practice of the employer that in case of ad hoc employee, a deliberate gap of one or more days is given in different spell of employment. Therefore, such gaps in the ad hoc service are to be ignored under Rule 4.23 and the entire ad hoc service is to be computed for the purpose of grant of pensionary benefits.

As such, the writ petition is allowed. The entire ad hoc service of the petitioner from 12.12.1991 onwards till his regularization of service is

to be computed for the purpose of grant of pensionary benefits.

The respondents shall redetermine the qualified period of the petitioner and release the pensionary benefits within three months from the date of receipt of a certified copy of this order. Interest @ 9% per annum on the arrears from the date of retirement till payment shall also be paid.

13.12.2016

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

Yes