

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.2041 of 2012 (O&M)

Date of Decision: 26.07.2016

Chaudhary Charan Singh Haryana
Agricultural University, Hisar & Ors.

... Appellants

VS.

Dr. OP Yadav

... Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE DARSHAN SINGH**

1. Whether speaking / reasoned?	Yes / No
2. Whether reportable?	Yes / No
3. Whether Reporters of local papers may be allowed to see the judgment?	Yes / No
4. To be referred to the Reporters or not?	Yes / No
5. Whether the judgment should be reported in the Digest?	Yes / No

Present: Mr. Vijay Pal, Advocate for the appellants

Mr. Jaivir Yadav, Advocate for the respondent

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal is directed against the order dated 23.02.2012 whereby learned Single Judge allowed the respondent's writ petition in part and held him entitled to reckon for a further period of 2 years for the purpose of superannuation pension in terms of Rule 3.2 of the Pension Statute of the appellant-University.

(2) We have heard learned counsel for the parties at a considerable length and gone through the record.

(3) The question that arises for consideration is whether the respondent is entitled to the benefit of Rule 3.2 of Pension Statute of the University to seek addition of two years in his qualifying service for superannuation pension?

(4) The facts are not in dispute. The respondent joined the appellant-University as a Lecturer in Chemistry on 05.07.1975. He

time of appointment. The cadre of Lecturers and Assistant Professors in the University was merged on the recommendations of University Grants Commission on 10.03.1976 but retrospectively w.e.f. 01.01.1973.

(5) The respondent was also re-designated as Assistant Professor from the date of his appointment i.e. 05.07.1975 and he was declared to have successfully completed the probation period as an Assistant Professor vide order dated 17.11.1977 (P2). On retirement from service on 31.07.2003 on attaining the age of superannuation, the respondent applied for weightage under Rule 3.2 of the Pension Statute but his claim not having been accepted, he approached this Court and learned Single Judge has vide order under appeal allowed the respondent the benefit of addition of two years in the length of his service for superannuation pension.

(6) Rule 3.1 & 3.2 of the Pension Statute are to the following effect:-

“(ii) SERVICE QUALIFYING FOR PENSION

3.1 As provided in the corresponding provisions of the Punjab CSR Vol. II applicable to Haryana Govt. employees as amended from time to time.

3.2 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 class of pension) the actual period not exceeding one fourth of the length of his service or the actual periods by which his age at the time of recruitment exceeded 25 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 a specialist qualification or experience in scientific, technological or professional field is essential and*
- (b) to which candidates of more than 25 years of age are normally recruited.”*

- (7) The case of the respondent was that since he was having Ph.D. degree i.e. Postgraduate Research and was more than 25 years of age at the time of appointment in the University service, he is entitled to add two years to his qualifying service for superannuation pension.
- (8) The University rejected the claim of respondent citing the following reasons:-

“4. In view of the above instructions, where it was mentioned that Ph.D. degree can be completed at the age of 25 to 27 years. It was necessary to decide that by which age the qualification of Ph.D. can be acquired in CCS HAU. The Vice-Chancellor has approved the following details of the age of acquiring Ph.D. degree in Agriculture and Veterinary Science.

<i>S.No.</i>	<i>Name of degree</i>	<i>Age at which these can be obtained</i>	<i>Weightage beyond 25 years</i>
<i>1.</i>	<i>Ph.D. or M.Sc. with 3 years experience</i>	<i>27 years</i>	<i>2 years</i>
<i>2.</i>	<i>Ph.D. or M.V.Sc. with 3 years experience</i>	<i>28 years (limited to 27 years)</i>	<i>2 years</i>

5. In case Ph.D. or M.Sc. with 3 years experience is acquired before 25 years, no weightage will be admissible. Similarly, if these are acquired before 27

years, then weightage admissible will be limited to the period taken above 25 years, but it will be maximum of 2 years.

6. The weightage under Clause 3.2 will be admissible only on the initial appointment of Asstt. Professor and equivalent only when the qualification for the post of Asstt. Professor was Ph.D. or M.Sc. with three years experience.”

(9) Learned Single Judge relied upon the reasoning assigned by the University, reproduced above, to hold that since the respondent was appointed as an ‘Assistant Professor’ and he was possessing Ph.D. qualification hence weightage of 2 years is admissible to him.

(10) It is undeniable that the respondent is deemed to have been appointed as an ‘Assistant Professor’ w.e.f. 05.07.1975 for all intents and purposes. He was confirmed as an Assistant Professor only. It is also not in dispute that for the post of Assistant Professor, Ph.D. i.e. “Postgraduate Research” is one of the essential qualification. It is also admitted that respondent was more than 25 years old when he was appointed in the University. The cumulative effect of these three facts, in our considered view, substantially satisfies Clause (a) & (b) of Rule 3.2 of the Pension Statute and, thus, the view taken by learned Single Judge would not call for any interference.

(11) Learned counsel for the University, however, is right in contending that a University employee possessing qualification higher than what is prescribed for the post to which he is appointed, would not be entitled to seek benefit of Rule 3.2 *ibid* even if such qualification prompted

the competent authority to select and appoint such person. In the instant case also, had the respondent continued to hold the rank of Lecturer only, namely, the post for which the Postgraduate Research was not an essential qualification, he would not have been entitled to the benefit of Rule 3.2 *ibid* for want of fulfillment of condition contained in sub-Clause (a). However, the post against which he was appointed was admittedly re-designated as Assistant Professor from the date of his initial appointment. In law, he is deemed to have occupied the post of Assistant Professor on his appointment on 05.07.1975 regardless of the fact that he had actually joined as Lecturer only. The case of the respondent thus is distinguishable.

(12) We are informed that the respondent has since been granted the benefit of two years' service for superannuation pension. Taking into consideration all the attending circumstances, we do not find it a fit case to interfere with the order under appeal. Dismissed.

(Surya Kant)
Judge

26.07.2016
vishal shonkar

(Darshan Singh)
Judge