

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

LPA No.30 of 2015 (O&M)

Date of decision: 10.03.2016

The Board of Governors, Government Polytechnic Education Society
Uttawar and others

----Appellants

Versus

Mohd.Najibul Hassan

----Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.Amar Vivek, Addl. A.G., Haryana
for the appellants

Mr.Jagbir Malik, Advocate for the respondent.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent Act has been filed against the judgment dated 13.10.2014 of the learned Single Judge, whereby, CWP No.14069 of 2013 filed by the respondent praying for quashing the orders dated 13.02.2012 (Annexure P-18) and 18.02.2013 (Annexure P-21) declining his claim for counting his past service from 13.05.2000 to 27.02.2008, for the purposes of grant of retiral benefits has been allowed.

The Government Polytechnic Education Society Uttawar (hereinafter referred to as 'the society') was registered under the Societies Registration Act, 1860 on 23.8.2006. As per notification dated 21.09.2006 the service conditions of the employees are

governed by the Bye-laws of the Society. The Society is totally financed and controlled by the Government of Haryana. Vide notification dated 23.11.2006 various posts were transferred from the cadre of Government Polytechnics to the cadre of the society with effect from the date of the issuance of notification for the constitution of the Society.

On 5.10.2007 the Society advertised two posts of Lecturer in Civil Engineering.

The respondent was working as Depot Material Superintendant in Northern Railway since 13.05.2000. He was a confirmed employee on a pensionable post. After seeking permission from his employer, the respondent applied for the said post through proper channel. He was successful and was placed at merit No.1. After being relieved by the Northern Railway, the respondent joined the society as Lecturer in Civil Engineering on 28.02.2008.

On 03.07.2009, he submitted a representation to count his past service rendered with Northern Railway for the purpose of retiral benefits. The request having been declined vide orders dated 13.02.2012 (Annexure P-18) and 18.02.2013 (Annexure P-21), he filed the Civil Writ Petition, which has been allowed.

Learned Single Judge took note of the notifications dated 22.8.1988 (Annexure P-13) and 19.07.2011 (Annexure P-14), as per which, service rendered by the employees of the State Government and State Autonomous Bodies prior to their absorption in the Central

Government or Autonomous Bodies of the Central Government and *vice versa* would be countable for pensionary benefits provided their previous service was pensionable .

Further Learned Single Judge took note of the fact that the Society is provided 100% grant-in-aid by the State Government and is totally controlled by it inasmuch as the Principal Secretary to Government of Haryana, Technical Education Department is the Chairman and Director General, Technical Education, Haryana is its Vice Chairman. Reference was also made to the bye-laws of the Society. As per bye-law 1 of the society, in respect of any matter not covered by the bye-laws, the Rules of the Haryana State Government shall apply *mutatis mutandis*. As per bye-law 22, the Conduct Rules applicable to the Government employees are applicable to the employees of the society and as per bye-law 23, the new Pension Rules, 2006 applicable to Haryana Government employees would be applicable to employees of the society.

Taking note of these aspects, it was concluded that the case of the respondent was covered by the notifications dated 22.8.1988 (Annexure P-13) and 19.07.2011 (Annexure P-14). Accordingly, it was held that the past service of the respondent was liable to be counted for pensionary benefits.

It was further held that the impugned orders could not be sustained being non-speaking.

Learned Counsel for the appellants has argued that the benefit of the instructions Annexure P-13 and P-14 cannot be

extended to the respondent as the Society cannot be considered to be an autonomous body of the State Government. We find ourselves unable to agree with this contention. Considering that the Society is fully funded and controlled by the State, it would certainly be 'State' within the meaning of Article 12 of the Constitution. This assertion in the writ petition has not been controverted in the written statement. Thus, it is not possible to accept the argument of the learned State Counsel that the Society cannot be considered to be an autonomous body of the State and hence, not covered by notifications Annexures P-13 and P-14.

Moreover the learned Counsel for the appellants has not been able to deny that other employees similarly placed have been granted the same benefit . The respondent, thus, cannot be discriminated against.

Accordingly, we find no infirmity in the impugned order and the appeal is dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

March 10, 2016
Atul