

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3162 of 2012 (O&M)

Date of Decision:- 11.7.2016.

The Punjab School Education Board and others

.....Petitioners

Versus

Gurbachan Singh alias Bachan Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers 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?

Present: Mr. G.S. Bal, Senior Advocate with
Mr. A.D.S. Bal, Advocate for the petitioners.

Mr. Sunil Kumar Sharma, Advocate for
the respondents.

P.B. BAJANTHRI, J.

1.) In the present case, appellant aggrieved by the order of the Trial Court as well as Appellate Court, presented this appeal.

2.) The respondent rendered service in the Government Department w.e.f. 16.5.1969 to 20.10.1971 and in Guru Nanak Dev University w.e.f. 21.10.1971 to 04.06.1978. His total service would be 9 years and 5 months. Thereafter, it is learnt that he has joined Punjab School Education Board on 07.06.1978 and superannuated and retired from service on 30.6.2000. The intervening period from

1969 to 1978 has not been counted towards pension and pensionary benefits. Thus, the first respondent, feeling aggrieved, filed a suit for declaration before the Trial Court and the same was decided on 18.8.2008 in his favour. The Trial Court considered his grievance and suit was decreed with reference to decision of the Division Bench passed in **CWP No.2671 of 2003 (Harlal Singh Vs. State of Punjab and others)** decided on 27.7.2004.

3.) The Punjab School Education Board aggrieved by the order of the Trial Court preferred an appeal before the Appellate Court. The same was dismissed on 16.9.2011 while upholding the decree of the Trial Court dated 18.8.2008. Hence, the Punjab School Education Board presented this Appeal.

4.) Learned counsel for the appellant contended that Regulation No.6 (c) of the Punjab School Education Board (Employees' Pension, Provident Fund and Gratuity) Regulations, 1991 is to be taken note of for the purpose of granting relief to the first respondent herein. If the said provision is taken into consideration the first respondent is entitled only 5 years of service to be counted towards grant of pension and pensionary benefits for the service rendered in the Government Office and Guru Nanak Dev University. It is undisputed that the Division Bench in **CWP No.2671 of 2003** held that in identical matter service rendered in different Institution/Government such of those employees who were subsequently appointed in Punjab School Education Board are

entitled to count entire service rendered in an institution/University/Government service irrespective of 5 years or actual period of service. In para 10 it is held as follows:-

"It is not denied by the respondents that the petitioner is entitled to pension under the Regulations. The only question is as to whether the petitioner is entitled to add the entire service rendered with the State of Punjab for the purposes of qualifying service on the post of which the pension and the retiral dues are to be computed. It is not disputed that the petitioner joined the State of Punjab as a Technical Assistant on 22.12.1962. It is also not disputed that the petitioner has been in uninterrupted service of the State of Punjab till he joined the Board on deputation on 5.7.1983. It is also not disputed that the petitioner was appointed on the post of Deputy Secretary (Administration) which require specialised qualifications. A candidate was required to have a Master's degree or LL.B of a Recognised University. A candidate was also required to have 15 years experience in Education Administration-cum-Teaching out of which 5 years experience has to be as the District Education Officer or its equivalent or higher grade. The petitioner competed with other candidates and was appointed on deputation as Deputy Secretary (Administration) on 5.7.1983. He was permanently absorbed as an officer of the Board by order dated 7.9.1986 with effect from 5.7.1983. This order was passed in public interest. Clearly therefore, in

such circumstances, the petitioner's case is covered under Regulation 6(c) of the Regulations. Regulation 6 (c) is reproduced above, provides for adding of the entire service to qualifying service on the posts for which special qualification is required at the time of recruitment. As noticed above, the petitioner was appointed on the post of Deputy Secretary (Administration) on the basis of his specialised experience.”

5.) It is learnt that the Division Bench judgment has been approved by the Apex Court. Therefore, the appeal stands rejected while upholding the order of the Trial Court as well as Appellate Court.

(P.B. BAJANTHRI)
JUDGE

July 11, 2016.

sandeep sethi