

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.870 of 2016 (O&M)

Date of Decision: 03.11.2016

BD Sharma

... Appellant

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

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. Vikas Malik, Advocate for the appellant

SURYA KANT, J. (Oral)

(1) The appellant challenged the order dated 23.04.2014 (P7) passed by District Education Officer, Faridabad whereby his claim for permitting him to join the school, which was a privately managed Government-aided school, was turned down on the ground that the school had been closed w.e.f. 01.04.2007 i.e. much before the occasion to consider the above-stated claim arose.

(2) Learned Single Judge vide the order under appeal has declared that the appellant be taken to have retired from service on 31.03.2007, namely, a day before the school was closed and he be granted all retiral benefits accordingly. The appellant raised yet another claim before the learned Single Judge to the effect that some of his colleagues had approached this Court by way of **CWP No.17710 of 2009 (Smt. Raj Bala & Ors. vs. State of Haryana & Ors.)** which was allowed by a learned Single Judge on 18.11.2010 (P5) whereby they were declared to be in service till

19.03.2009 and thus all of them have been granted retiral benefits by counting their 'qualifying service' upto 19.03.2009.

(3) Learned Single Judge has distinguished the above cited order in **Raj Bala's** case observing that it was not brought to the notice of learned Judge in the said case that the school had already been closed w.e.f. 01.04.2007.

(4) Still aggrieved, the appellant has filed this Intra Court Appeal claiming that irrespective of the date of closure of school, he is entitled to seek parity with his colleagues and consequential continuation in service till 19.03.2009.

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

(6) While considering the legality of the impugned order dated 23.04.2014 (P7), the issue that arose for consideration of learned Single Judge was to determine the date on which the appellant be deemed to have been reinstated in service after the disciplinary action taken against him by the management in contravention of principles of natural justice was set aside by departmental authorities? That question has been answered by holding that as the school was closed down on 01.04.2007, the appellant be treated to have been reinstated with continuity in service till 31.03.2007.

(7) Since the appellant did not raise any specific plea that he was entitled to continuation in service till 19.03.2009 at par with some of his colleagues who had earlier approached this Court in **Raj Bala**, we do not find any ground to interfere with the order under appeal and consequently dismiss this appeal.

(8) However, if the appellant is entitled to seek counting of the subject service towards 'qualifying service' for the purpose of pension and other retiral benefits upto 19.03.2009 on the ground of parity, he may approach the Competent Authority in this regard, who shall consider such claim on merits not being influenced by the observations made by learned Single Judge or in this order.

(9) Ordered accordingly. Appeal stands disposed of in above terms.

(Surya Kant)
Judge

03.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge