

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

**CWP No. 17424 of 2010
Date of Decision: May 23, 2017**

Dalbir Singh Mangat & others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. S. C. Pathela, Advocate
for the petitioners.

Ms. Lavanya Paul, AAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioners have filed the instant writ petition for issuing directions to the respondents to consider the total service rendered by them with Fish Farmers Development Agency on *ad hoc* basis prior to their regular appointment with the Fisheries Department for the purpose of fixation of pension as well as other retiral benefits which are available to other regular government employees from the date of their initial appointment.

2. In the year 1977, the Government of India formulated a centrally sponsored scheme on 'Development of Island Fisheries and Aquaculture' to develop and utilize vast resources such as ponds, drying rivers, canals and other water bodies having immense scope for development of fisheries to generate employment and to earn foreign exchange. The expenditure under the scheme was to be shared on a ratio of 75:25 basis by the Government of India and the State/U.T. Governments. The State Government was to bear hundred percent cost of staff including salary to employees. Under the said

scheme the Punjab Government established 'Fish Farmers Development Agencies' (*FFDA' for short*) and the same was registered under the Societies Registration Act, 1860. Sanction was also accorded for the creation of certain posts in FFDA, with the expenditure to be debited to Head 312-Fisheries Inland Fisheries(Plan) Central Plan, with the concurrence of the Finance Department. These agencies were under the direct administrative control of the Deputy Commissioner of the district, and later on under Director and Warden of Fisheries, Punjab. The petitioners were appointed with 'Fish Farmers Development Agency' on *ad hoc* basis in the year 1980 after receiving recommendations from the Employment Exchange. In 1998, a decision was taken to absorb persons like the petitioners in the Fisheries Department who had worked on *ad hoc* basis for the last more than 10 years and thereafter to regularize their services. In consonance with the decision taken, the petitioners were absorbed against vacant posts in the Department of Fisheries on 12.05.1998. After absorption the petitioners were also allowed the benefit of past service rendered in FFDA for the purpose of increment. After being regularized, the petitioners herein sought counting of their services rendered in FFDA for the purpose of pension and retrial dues. Since the same was denied, the instant writ petition has been filed.

3. Mr. S. C Pathela, learned counsel appearing on behalf of the petitioners, contends that the petitioners would be entitled to the benefit of the services rendered in FFDA to be counted towards their pension and retrial dues. It is argued that the society was nothing else other than an instrumentality of the State since the society had been set up under a scheme of the Government of India itself, with funds being released in the ratio of 75:25. The posts were sanctioned by the State of Punjab itself and the salaries

were being met out under the Head 312-Fisheries Inland Fisheries(Plan) Central Plan, with the concurrence of the Finance Department. Once the respondents-State had decided to give increments by counting the length of service rendered in FFDA, the petitioners would also be entitled to their length of service in FFDA to be counted towards pension and other retiral dues.

4. Per contra, Ms. Lavanya Paul, learned Assistant Advocate General, Punjab does not dispute the factual position, but vehemently contends that the benefit of services rendered in FFDA can not be counted towards pension and other retiral dues since the petitioners had worked under a society and as such, being an autonomous body, the same was not a part of the Department of Fisheries.

5. I have heard the counsel for the parties and with their assistance have also gone through the pleadings of the case.

6. The question that arises for determination is whether the petitioners would be entitled to the benefit of having their past services rendered in a society known as FFDA to be counted towards pension and retrial benefits after absorption with the State Government ?

7. Admittedly FFDA is a registered society under the Societies Registration Act, 1980. The term 'autonomous body' denotes a self governing body, independent, or subject to its own laws. If autonomous body or institution is a company, it is regulated by the company law. If it is a society, it is governed by the law on registration of societies. But in both the cases, its own board of directors can specify the rules of the business for the body/institution. FFDA is a creation of the State of Punjab, under its administrative control, since the District Commissioner and later on the

director of the Fisheries Department were its head. The salary itself was being met out by the Punjab Government and thereafter on absorption, the petitioners herein were released increments for the length of service rendered in FFDA. A similar situation arose in *Vijay Laxmi vs. State Of Punjab (1994) S.C.T. 85*, where the petitioners initially joined service in the Punjab State Social Welfare Advisory Board at Chandigarh. The project, being run by the Board, was thereafter taken over by the State Government along with the staff. On absorption, the petitioners sought the benefit of past service rendered with the Board to be counted towards their pension and retiral benefits. It was held that the petitioners had served the Board which is virtually an instrumentality of the State for a long period before their absorption in government service and once pay and allowances were protected, there was no reason to deny the benefit of their services on becoming the employees of the Government. The writ petition was allowed and respondents were directed to count the past service rendered by the petitioners with the State Social Welfare Advisory Board for the purpose of computing the pension etc.

8. What has to be noted while deciding the instant case is the order passed in *Chaman Lal versus State of Punjab and others CWP 1501 of 2001* by a Division Bench of this Court on 03.02.2003. One Mr. Chaman Lal, an employee of FFDA, was appointed as a Driver and later on absorbed in the Department of Fisheries. He filed the aforementioned writ petition before this High Court for issuance of a writ in the nature of mandamus directing the respondents to give proficiency step up by way of an additional and annual increment on completion of 8, 16, 24 years of service. The writ petition was

dismissed on the ground that the FFDA is a registered society under the Societies Registration Act, 1860 and being an autonomous body is not a part of the Department of Fisheries Punjab. The Court held that *'It has been stated in the preliminary objection that the petitioner was appointed in the office of Fish Farm Development Agency, Amritsar, as a Truck Driver on a non-pensionable post. The Agency is a registered society under the Societies Registration Act, 1860. It is an autonomous body. It is not a part of the department of Fisheries Punjab. In fact, the petitioner was appointed as a driver in the Department of Fisheries by the Director and warden only on 22.5.1998. In view of the above, no relief can be granted to the petitioner.'*

Later, Chaman Lal instituted Civil Suit No. 275 of 2004 claiming retiral benefits in view of letter dated 20.04.1998 issued by the Govt. of Punjab which provided for regularization of *ad hoc* employees by absorbing them against the departmental posts. The said suit was dismissed vide judgment and decree dated 23.05.2006 as well as the First Appeal and the Regular Second Appeal. While dismissing the civil suit and the Regular Second Appeal, the observations made in the CWP No. 1501 of 2011 were relied upon. The High Court in RSA held *"Both the Courts below have given concurrent finding that since Fish Farmers Development Agency is an autonomous Board and is controlled by Co-operative Society and as such the services rendered by the plaintiff with the said Society cannot be counted for the purposes of pensionary benefits. That concurrent finding of fact could not be assailed. The petitioner has filed CWP No.1501 of 2001 under [Article 226/227](#) with a prayer to direct the department to release the additional increment in the form of proficiency step up after 8, 16, 24 and 32 years of the service but the same writ petition was dismissed according to the*

plaintiff.” Aggrieved, Chaman Lal preferred Civil Appeal No. 2273 of 2011 before the Apex Court. The Apex Court too, by its judgment dated 16.05.2014, declined to interfere with the matter by holding:-

“10. In fact, there has been adjudication on the same issue between the same parties and the High Court negatived appellant’s claim. We are of the considered opinion that the appellant does not deserve any relief whatsoever and the appeal is liable to be dismissed.”

9. The narration of the above facts are for the sole purpose of establishing that a Division Bench of this High Court has already held that FFDA is an autonomous body registered under the Societies Registration Act, 1860 and not a part of Department of Fisheries. The claim of similarly situated person for grant of retrial benefits by counting services rendered in FFDA has already been declined by this High Court and affirmed up to the Apex Court.

10. The claim of the petitioners for grant of mandamus to the respondents to count the service rendered under FFDA for the purpose of retiral benefits by relying on the judgment rendered in *Vijay Laxmi's case (supra)* would not be sustainable in the instant case, since a Division Bench of this Court has already held that FFDA is not a part of the Department of Fisheries, which in turn has been affirmed by the Apex Court.

11. In view of the above, the writ petition is dismissed.

May 23, 2017

Ansari

**(JAISHREE THAKUR)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*