

**219-A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-15958-2014 (O&M)

Date of Decision : 26.04.2017

RAM MEHAR SINGH

..... Petitioner

Versus

STATE OF HARYANA & ORS

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Suman Jain, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

Ms. Padamkant Dwivedi, Advocate
for respondent No. 3.

AJAY TEWARI, J. (Oral)

By this petition the petitioner claims all the benefits for his previous services.

Brief facts of the present case are that the petitioner was appointed as JBT Teacher on 10.01.1997. Thereafter he admittedly applied through proper channel for the Assistant Secretary in the Haryana State Agricultural Marketing Board (for short HSAMB) and was selected as such. On 9.10.2006 he moved an application (Annexure R-1) to his immediate superior i.e. the Head Master of Government High School, Israna informing him of his selection and asking to be relieved. On that very date the Head Master Government High School, Israna relieved the petitioner by letter dated Annexure P-2 which was marked to District Education Officer,

Panipat who also signed the same. By a letter dated 2.3.2007 his new employer i.e. the HSAMB wrote to the Commissioner-cum-Director General School Education Haryana i.e respondent No.2 requesting them to sent the copy of technical resignation duly accepted by his office alongwith pension liabilities etc. with up to date interest through demand draft payable in favour of the Haryana Marketing Development Fund. By Annexure P-6 dated 5.6.2007 the respondent No.2 informed the HSAMB that the resignation of the petitioner has been accepted and relieving report was sent. It is stated in the petition that the official respondents also sent a cheque representing the amount owed to the petitioner on account of gratuity, leave encashment, GPF and GIS by demand draft but the same was returned as it was stale and did not include the component of pro-rata pension. No action has been taken thereafter and the present petition has been filed.

In the written statement an objection has been taken that in fact the petitioner did not properly resign, in so much as it was incumbent upon him to submit his resignation to the Director School Education and thereafter join the new job after being relieved properly.

In my opinion this argument cannot be now raised in view of the details mentioned above about the correspondence between HSAMB and the Director School Education. It cannot be lost sight of that the District Education Officer had appended his signature on the relieving report issued to the petitioner. If instead of appending his signature the District Education Officer had advised Head Master, Israna or the petitioner about the requirement of resignation which is now been sought to be pleaded the petitioner could have done the same. Even thereafter the

Director School Education himself wrote to the HSAMB that the resignation of the petitioner had been accepted and had forwarded his relieving report also.

In view of these facts, it now does not lie in the mouth of the respondents to argue that the petitioner had not resigned in proper form. Moreover, in the paragraph No.4 of the preliminary objections in the written statement the respondents have themselves accepted that they have sanctioned the payments on account of GIS, earned leave, gratuity and DCRG. Once these amounts have been sanctioned the official respondents No. 1 to 3 are bound to deposit the same with the HSAMB and are also now estopped from claiming that they are not liable to pay the pro-rata pension.

In the circumstances, petition stands allowed. Respondents are directed to transmit all the payments which have been sanctioned alongwith the applicable up to date interest to the respondent-HSAMB within 3 months from the date of received of certified copy of this order. As regards the pension respondents No. 1 to 3 would be bound to release their share of the pension of the petitioner on his retirement.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

26.04.2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No