

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18875-2013 (O&M)
Date of decision: 03.05.2017

Manju Bala

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Vipin Mahajan, Advocate for the petitioner
Mr.Nikhil K. Chopra, Additional Advocate General Punjab
Mr.R.D.Bawa, Advocate for respondent No.2
Mr.Sunil Kumar Sharma, Senior Panel Counsel
for Union of India- for respondent no.3

- 1. Whether Reporters of Local Newspapers 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?*

Kuldeep Singh, J. (Oral)

Petitioner has invoked the writ jurisdiction of this Court under Articles 226/227 of Constitution of India for quashing the order dated 30.1.2013 (Annexure P6), vide which, claim of the petitioner for counting her service rendered from 19.10.1984 to 31.10.1998 as qualifying service for the purpose of pensionary benefits was rejected. Writ of Madamus is also sought to count the said service and release her revised pensionary benefits along with interest.

Petitioner was initially appointed as Medical Officer in Nagar Nigam Zanana Hospital vide letter endorsed on 18.10.1984 (Annexure P1) against the post -partum program for which, the funds were received from the Central Government. She continued to work under the Municipal Corporation, Amritsar when ultimately, her services were regularized vide

resolution dated 2.3.1999 (Annexure P2/T) w.e.f. 1.11.1998. Thereafter, the petitioner retired from service on 31.10.2010 on attaining the age of superannuation. However, the respondents have not counted the service of the petitioner from 19.10.1984 to 31.10.1998 as qualifying service for the purpose of pension on the ground that she was working against the post for which the aid was received from the Central Government and that it is not the post under the Municipal Corporation.

In the written statement of Municipal Corporation, a similar stand has been taken.

I have heard learned counsel for both the parties and have also carefully perused the record.

It is not denied on behalf of the respondents that the service of the petitioner from 19.10.1984 to 31.10.1998 has been considered for grant of increments, ACP and other benefits. The respondent Corporation has refused to count the service for pension only on the ground that the petitioner was working on a post for which grant-in-aid was received from the Central Government. Admittedly, under the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994, the qualifying service includes the service under the Corporation. It is also not denying fact that Rules 8 and 13, Punjab Civil Services Rules are applicable. Under the Punjab Civil Services Rules, even ad hoc, temporary, work charge or daily wage service is counted as qualifying service for the purpose of pension.

Learned counsel for respondents has argued that for the said period from 19.10.1984 to 31.10.1998, the petitioner has not deposited the CPF except for the small period from 1993-1994 which was also refunded

to her. She started contributing towards General Provident Fund only from the date from which she was made regular w.e.f. 1.11.1998. Therefore, she is not entitled to pension. It is further contended that the earlier service of the petitioner was on the grand-in-aid received from the Union of India and that should be deemed to be service under the Union of India.

I am of the view that contention of learned counsel for the Corporation is not tenable. The petitioner was appointed by the Municipal Corporation against the post though the funds were received from the Union of India. The appointment letter was issued by the Municipal Corporation, Jalandhar. The petitioner worked under the control of Municipal Corporation, Amritsar and her service conditions were also governed by the Rules of the Municipal Corporation, Amritsar. Therefore, her service from 19.10.1984 to 31.10.1998 cannot be treated as service under the Union of India. Therefore, Union of India has no liability whatsoever in this matter.

Admittedly, service of the petitioner for the above said period has been considered while granting increments, ACP and the pay scale. The pay of the petitioner was also protected. Therefore, it will be unjust not to count the said service as qualifying service for the pension. It was also so held by this Court in Vijay Laxmi vs. State of Punjab, 1994(2) S.C.T. 85.

Learned counsel for the petitioner has stated that he is ready to deposit or adjust the CPF along with interest from 19.10.1984 to 31.10.1998 from the arrears which are to be paid to her.

It being so, the present writ petition is allowed. Respondent Corporation is directed to count service of the petitioner from 19.10.1984 to 31.10.1998 as qualifying service for the purpose of pension. CPF which is to be paid for the said period by the petitioner along with interest as per

government instructions shall be deducted from the arrears which are to be paid to the petitioner. Arrears shall be paid with interest on the same rate which is charged from the petitioner on the CPF. Respondent Corporation is directed to re-calculate and re-fix the pension of the petitioner after computing said period and release the balance arrears to the petitioner within three months from the date of receipt of a certified copy of this order.

03.05.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No