

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 20042 of 2016

Reserved on: January 23, 2017

Date of Decision: February 6th, 2017

Lalita Kumari

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Harish Bhardwaj, Advocate,
for the petitioner.

P.B. Bajanthri, J.

1. In the instant writ petition, the petitioner has questioned the validity of order dated 18.05.2015 (Annexure P/10).

2. The petitioner has joined as a JBT Teacher in the Education Department, Chandigarh Administration on 01.03.2002. While petitioner was working as a JBT Teacher, she has submitted an application for the post of JBT Teacher advertised by the Haryana Staff Selection Commission on 10.08.2006 through proper channel i.e. through Education Department, Chandigarh Administration. The petitioner was selected for the post of JBT Teacher in the Education Department, State of Haryana and she has been offered appointment on 19.08.2008. Thus, the petitioner was relieved from the post of JBT Teacher in the Education Department, Chandigarh Administration on 29.08.2008. Further, petitioner has joined as a JBT teacher in the Education Department, State of Haryana on 30.08.3008. She was posted in the Government Senior Secondary Model School, Barara

(Ambala) for which she has reported on 30.08.2008.

3. The petitioner is stated to have submitted a representation to respondents no. 3 and 4 for the purpose of counting her past service rendered in the Education Department, Chandigarh Administration, during the period from 01.03.2002 to 29.08.2008 towards pay protection in the Education Department, State of Haryana. The petitioner's claim has been rejected on 18.05.2015 by the 3rd respondent stating that under CSR Volume I, there is no provision for pay protection. The petitioner is appointed in Government of Haryana as a fresh recruit. Therefore, past service can be treated as qualifying service towards pensionary benefits and not for pay protection. The said decision is under challenge in the present petition.

4. Learned counsel for the petitioner vehemently contended that the petitioner is entitled for pay protection as she was drawing more pay in the Education Department, Chandigarh Administration. She had taken permission before applying for the post of JBT Teacher in the State of Haryana and her application was forwarded by the competent authority under the Chandigarh Administration and it is in accordance with provisions of law. Consequently, she is entitled for pay protection. Learned counsel for the petitioner relied on Rule 3.17 of CSR Volume-II so as to claim pay protection to the petitioner and the impugned decision dated 18.05.2015 (Annexure P/10) is contrary to said Rules. Hence, decision of respondent no.3 is liable to be set aside.

5. Heard learned counsel for the petitioner.

6. Grievance of the petitioner is relating to pay protection with reference to service rendered by her in the Education Department, Chandigarh Administration in the JBT Teacher post. The petitioner has

rendered service in the Education Department, Chandigarh Administration during the period from 01.03.2002 to 29.08.2008. She was relieved on 29.08.2008. The petitioner was appointed in the State of Haryana. For the purpose of extending service benefits rendered in Chandigarh Administration, CSR Rules are applicable. Under Rule 3.17 of CSR Volume-II, there is no provision for pay protection. Pay protection is permissible only in respect of Central Government Employee who is permanently transferred to Haryana Government with certain conditions. Whereas, in the present case, the petitioner's case is not relating to transfer from Union Territory, Chandigarh Administration to State of Haryana and it is direct recruitment as a fresh appointee. Thus, there is no provision for extending the benefits of pay protection to the petitioner. Hence, 3rd respondent rightly rejected the claim of the petitioner to count past service for the purpose of pay protection. Therefore, there is no infirmity in the decision of 3rd respondent dated 18.05.2015 (Annexure P/10) so as to interfere with the same.

7. Accordingly, the instant writ petition is dismissed in limine.

February 6th, 2017
vkd

[P.B. Bajanthri]
Judge

Whether speaking/reasoned : Yes / No

Whether Reportable: Yes / No