

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

CWP No. 4558 of 2014

Date of Decision:08.11.2017

Bhanwati

.....Petitioner

Versus

The State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Tribhuvan Dahiya, Advocate
for the petitioner.

Mr. R.K.S.Brar, Addl. AG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

The petitioner in this case is seeking the benefit of service rendered by her in a privately managed Government aided school where she worked from 12.09.1978 till 27.03.1993 as a Social Studies Mistress, after which she was appointed in Government service on the same post, where she joined on 28.03.1993.

It is specifically contended that the petitioner even in the privately managed institute was serving on a Government aided post, which is not denied by the State.

That being so, Mr. Dahiya, learned counsel for the petitioner, has relied upon the judgment of a Division Bench of this Court in **LPA No.162 of 2010 'The State of Haryana vs. Vijay Singh'** decided on 08.02.2010, wherein a similar benefit was given to the respondent therein (petitioner in the writ petition against the judgment in which the State had filed an appeal).

Mr. Brar, Addl. A.G., Haryana, submits that the petitioner having resigned from her previous school, Rule 4.19(a) of the Punjab Civil Service Rules, Vol.II, (as applicable to the State of Haryana), becomes applicable, by which resignation entails forfeiture of past service.

Whereas there can be no dispute on what is stipulated in the said rule, however once the Government has promulgated a scheme for counting of past service rendered by employees in privately aided schools and the employee subsequently joins Government service, obviously she or he could have joined such service only after resigning from the previous post, unless the posts in question in the privately managed school were taken over by the Government.

It is seen that even in the judgment of the Division Bench in **LPA No.162 of 2010**, it was contended by the State that the petitioner had earlier left private service and then joined State service and therefore, could not be granted the benefit of service rendered in the aided school.

That contention having been rejected by the Division Bench by citing various judgments prior thereto also, the stand of the respondents is untenable and infact should not have been taken in the first place, with the aforesaid judgment in **LPA No.162 of 2010** having become final.

Consequently, this petition is allowed with costs of Rs.20,000/-.

The respondents are directed to calculate the pension of the petitioner by counting her service in Kanya Gurukul Sr. Sec.School, Khanpur Kalan, Sonapat, from 12.09.1978 till the time she was appointed in Government service.

An order to that effect be passed within a period of 3 months from the date of received of a certified copy of this order, with the arrears of pension to be paid to her within a period of 3 months thereafter, alongwith statutory interest in the case of provident fund, and interest at the rate of 6% per annum on all other benefits.

November 08, 2017

dharamvir

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO