

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 5909 of 2015 (O&M)
Date of Decision: 31.05.2017

Dr. Prem Nath *...Petitioner*
Vs.

Vice Chancellor, Panjab University, Chandigarh and Others ...Respondents

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. Fateh Saini, Advocate,
for the petitioner.

Mr. Sanyam Malhotra, Advocate,
for the respondents No. 1 to 3.

KULDIP SINGH, J (ORAL)

Brief facts of this case are that the petitioner, who retired as Associate Professor on 31.07.2009 from the Department of Laws, Punjab University, Chandigarh seeks issuance of writ of certiorari for quashing of letters dated 30.07.2010, 13.02.2015 and 26.02.2015 (*Annexure P-4, P-8 and P-10 respectively*) whereby the implementation of the pension scheme in respect of the petitioner has been rejected on the ground that the service rendered by the petitioner on ad hoc/contractual basis/lecture basis cannot be counted as a qualifying service for the purpose of pension under the Regulations of Punjab University. The petitioner also seeks issuance of writ in the nature of mandamus for directing the respondents to release his pensionary benefits alongwith interest.

It comes out that the petitioner is claiming to have rendered the service as per following details: -

<i>Sr. No.</i>	<i>Place of employment/ Institution</i>	<i>Period of employment</i>	<i>Nature</i>	
1.	<i>Departmental of Law, P.U., Chandigarh</i>	<i>14.11.1993 to April, 1994</i>	<i>Contract basis</i>	<i>Teaching</i>
2.	<i>GNDU, Regional Center, Jalandhar.</i>	<i>26.08.1994 to 03.11.1994</i>	<i>Ad hoc</i>	<i>Teaching</i>

CWP No. 5909 of 2015 (O&M)

3.	Departmental of Law, P.U., Chandigarh	December 1994 to April, 1995	Contract basis	Teaching
4.	Departmental of Law, P.U., Chandigarh	July 1995 to April 1996	Contract basis	Teaching
5.	Departmental of Law, P.U., Chandigarh	July 1996 to 12.09.1996	Contract basis	Teaching
6.	GNDU, Regional Center, Jalandhar.	13.09.1996 to 30.04.1997	Ad hoc	Teaching
7.	Departmental of Law, P.U., Chandigarh	July 1998 to April 1999	Contract basis	Teaching
8.	Departmental of Law, P.U., Chandigarh	July 1999 to 19.12.1999	Contract basis	Teaching
9.	Departmental of Law, P.U., Chandigarh	December 20, 1999 to 31.07.2009	Regular	Teaching
10.	Departmental of Law, P.U., Chandigarh	24.08.2009 to till now	Re-employed	Teaching

It comes out that the petitioner was re-employed twice by the Punjab University, Chandigarh. The petitioner used to teach sometimes in the morning and sometimes in the evening and sometimes in both the sessions in the Department of Laws, Punjab University, Chandigarh. Now, the pension has been declined to him as per Panjab University Calendar of the Rules and Regulations governing Panjab University Employees (Pension), 1991 effective from 24.10.2005 (*hereinafter referred as "Regulations 1991"*).

The respondents in the written statement have taken the plea that for the purpose of pension, minimum qualifying service is of 10 years and the petitioner has only 9 years, 7 months and 12 days of regular service. Therefore, he is ineligible for pension as per regulation 4.3 of the Regulations 1991. It is further stated that the service rendered by the petitioner prior to the regular service, it was not full time job as the petitioner was working on part-time or lecture basis. Under Regulation 15, Chapter IV (iii) (b) Regulations 1991, the person appointed on lecture basis cannot be treated akin to full time employee. Therefore, the services rendered by the petitioner on lecture-basis cannot be treated as a qualifying service for the purpose of pension.

I have heard the learned counsel for both the parties and have carefully gone through the case file.

Learned counsel for the petitioner has contended that at the most if the services of the petitioner w.e.f. July, 1999 on contract-basis, followed by regular employment till his retirement, is considered, he will fulfill the condition of completing 10 years service and will qualify for pension scheme. Learned counsel for the petitioner has further contended that the petitioner was performing his duties in the morning sessions as well as in the evening sessions sometimes in both the sessions.

Regulation 4.3 of the Panjab University Calendar, Volume-I of Chapter X of the Rules and Regulations governing Panjab University Employees (Pension), 1991 effective from 24.10.2005 as mentioned in the pleading of the written statement are reproduced as under: -

“4.3. *In the case of an employee who has rendered 10 years (20 half years), or more of qualifying service, the pension payable shall be calculated at the rate of 50% of average emoluments, if the qualifying service rendered is not less than 33 years (sixty six half years). In cases where the qualifying service is less than sixty six half years, the pension admissible shall first be calculated at 50% of average emoluments and then reduced proportionately, to completed half years service actually rendered, provided that pension shall, in no case, be less than Rs. 375 per month.”*

Regulation 3.5 of the Panjab University Calendar, Volume-I of the Rules and Regulations governing Panjab University Employees (Pension), 1991 effective from 24.10.2005 as mentioned in the pleading of the written statement are reproduced as under: -

“3.5. *Service rendered by an employee as work-charged as also service paid from contingencies, qualifies for pension provided:*

(i) such service is followed by regular employment; (ii) such service is full-time job (and not part-time or portion of the day). ”

Regulation 15 of the Panjab University Calendar, Chapter IV (iii) (b) of the Rules and Regulations governing Panjab University Employees (Pension), 1991 effective from 24.10.2005 as mentioned in the pleading of the written statement are reproduced as under: -

“15. It is mandatory for a regular Lecturer to take 16 hours (14 hours in the case of Reader and Professor) of work load in week and has to take more than one paper/options/class/whereas in the case of Guest faculty only one paper/option/class is to be taught 40 lectures per month i.e. 10 lectures per week”

A combined reading of the aforesaid Regulations shows that a part time job or job for portion of the day is not to be counted as qualifying service for the purpose of pension. Regulation 4.3 further makes it clear that minimum 10 years regular service is required for availing the pension scheme.

The petitioner has stated that his earlier appointment before regular employment was on contract-basis. However, the record belies the same. It comes out that vide office order endorsed on 05.06.1998 (*Annexure R-7 Colly.*), the petitioner was appointed on lecture basis for the academic session 1998-1999. The meeting note of the selection committee dated 18.08.1999 shows that the petitioner was appointed on lecture basis for the Academic session 1999-2000. Therefore, the service of the petitioner, on the lecture basis, cannot be counted as a qualifying service for the purpose of pension. The meeting note dated 18.08.1999 shows that even some

Advocates, retired Professors, retired Additional District Session Judges and

retired DGP were appointed on lecture basis. Once the lecture basis service is excluded, the service of the petitioner will not meet the condition of minimum period of 10 years for grant of pension.

It being so, there is no merit in the present petition. Hence, the same is dismissed.

May 31, 2017

Suresh Kumar

**(KULDIP SINGH)
JUDGE**

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No ✓
<i>Whether Reportable</i>	:	Yes	/	No