

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

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**LPA No.346 of 2017 (O&M)**

**Date of Decision: 30.03.2017**

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Chaudhary Charan Singh,  
Haryana Agricultural University, Hisar

... Appellant

VS.

Dr. Mam Chand Goel & Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT  
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

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Present: Mr. CR Dahiya, Advocate for the appellant

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**SURYA KANT, J. (Oral)**

(1) This order shall dispose of LPA Nos.346 & 347 of 2017 as both the appeals are directed against the order dated 20.01.2017 whereby learned Single Judge has held the private respondents entitled to the benefit of Clause 3.2 of Chapter VIII-A of the University Pension Statute and consequently, the benefit of five years' service towards 'qualifying service' for the purpose of grant of superannuation pension earlier granted to them deserves to be restricted.

(2) The facts are not in dispute. Respondent No.1 (in the lead case) was appointed as Epidemiologist by way of direct recruitment which post is equivalent to Associate Professor. In the connected appeal, the private respondent was appointed directly as an Associate Professor. Both the private respondents have retired from service on attaining the age of superannuation. In the first case, respondent No.1 retired on 30.06.2001. They were granted the benefit of Rule 3.2 of Chapter VIII-A of the University Pension Statute for the purpose of counting of 'qualifying service' for superannuation pension but the same was subsequently withdrawn on the basis of interpretation of the Rule made by the State Government who is the funding agency of the University.

(3) It would be apposite to reproduce Rule 3.2 of the Rules *ibid* which reads as follows:-

*“3.2 An employee appointed to a service or post shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one fourth of the length of his service or the actual periods by which his age at the time of recruitment exceeded 25 years or a period of five years, whichever is less, if the service or post to which he is appointed is one.*

*(a) for which post-graduate research or a specialist qualification or experience in scientific, technological or professional field is essential and*

*(b) to which candidates of more than 25 years of age are normally recruited.*

*Provided that this concession shall not be admissible to an employee unless his actual qualifying service at the time he quits University service is not less than 10 years.*

*Provided further that any such employee who is recruited at the age of 35 years or more may, within a period of 3 months from the date of his appointment may elect to forego his rights to pension whereupon he will be eligible to subscribe to Contributory Provident Fund.”*

(emphasis applied)

(4) It may be seen that under the aforesaid Rule, a University employee is entitled to add to his service qualifying for superannuation pension the actual period not exceeding one fourth of the length of his service or the actual periods by which his age at the time of recruitment exceeded 25 years or a period of 5 years whichever is least, if the service or post to which he is appointed falls in Clause (a) & (b) of the Rules *ibid*.

(5) The State Government interpreted the above-stated Rule vide

*“(ii) Secondly, the benefit of qualifying period under this rule is admissible at the first entry level in service and not at a stage where the posts are filled up both by way of promotion as well as by way of direct recruitment (where the experience of lower/ first entry post is a part of the prescribed qualifications). For example, it would be available in case of an Assistant Professor but not in the case of an Associate Professor.”*

(emphasis by us)

(6) In the light of the above-reproduced interpretation of the Rule, the University assumed that the benefit of addition to the ‘qualifying service’ under Rule 3.2 is admissible only “*at the first entry level in service*” which means on the post of Assistant Professor alone and not in the case of a directly recruited Associate Professor.

(7) Learned Single Judge has held and rightly so that any post on which an employee of the University is appointed first time by way of direct recruitment will have to be taken as “first entry level in service”. Such an interpretation of Rule 3.2, in our considered view, is the correct statement of law for the reason that the private respondents in both the cases were direct entrants to the post of Associate Professor or equivalent and that was their first entry in the service of the University. The expression “service” has to mean ‘any service’ of the University to which a person is appointed first time by direct recruitment.

(8) Rule 3.2 talks of appointment to “a service or post” at the age exceeding 25 years and the eligibility for appointment to such “service” or “post” must require postgraduate research or specialist qualification etc. and the post must be of such stature where normally persons with more than 25 years age are appointed. The post of Associate Professor or equivalent admittedly

teaching experience is appointed as Associate Professor and both such eligibilities cannot be earned before the age of 25 years. The State Government on the pretext of interpretation of the Rule has attempted to add something to the Rule which is neither here nor there. The Government's interpretation of the Rule therefore has to be rejected.

(9) Somewhat similar issue had arisen for consideration before this Court in **LPA No.2041 of 2012 (Chaudhary Charan Singh Haryana Agricultural University, Hisar & Ors. vs. Dr. OP Yadav)** decided on 26.07.2016 wherein also, the respondent – a retired Professor was held entitled to benefit of addition of 'qualifying service' for the reason that he came to be appointed directly as an Assistant Professor after the age of 25 years. Following the same analogy and coupled with the plain meaning of subject-Rule, we do not find any ground to interfere with the order passed by learned Single Judge.

(10) Dismissed.

**(Surya Kant)**  
**Judge**

**30.03.2017**  
*vishal shonkar*

**(Sudip Ahluwalia)**  
**Judge**

1. Whether speaking/reasoned?  
2. Whether reportable?

**Yes**  
**No**