

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

CWP-4286-2003 (O&M)
Date of decision : 24.08.2018

Ashok Kumar Garg and others

...Petitioner(s)

Versus

The State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P.N. Aggarwal, Advocate,
for the petitioner(s).

Ms. Deepali Puri, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

By way of the instant petition filed under Articles 226/227 of the Constitution of India, the petitioners, *inter alia* seek quashing of impugned order dated 02.08.2002 (Annexure P-16) passed by respondent No.2 and to grant benefit of continuous service rendered by them.

On 11.02.2005, this Court passed the following order:-

“Mr. Aggarwal states that controversy raised in the present writ petition is squarely covered by a Division Bench judgment of this Court which is Annexure as P-20 to the replication. Mr. Behl has produced an order of the Supreme Court in S.L.P. No.13351 of 2003 dated 8.8.2003. A perusal of this order shows that the Supreme Court has issued notice in the aforesaid S.L.P. And in the meantime, the judgment has been stayed.

In view of the above, adjourned sine die.

To be listed for hearing after the decision of the Supreme Court in the aforesaid S.L.P.”

S.L.P. No.13351 of 2003 in CWP No.5615 of 2001, titled as ***Dr. Mahesh Chander and others Vs. The State of Punjab and others***, came to be decided by Hon'ble the Supreme Court on 15.04.2008 and their Lordships were pleased to pass the following order:-

“Leave granted.

One of the questions raised by the appellants herein is as to whether despite acceptance of the U.G.C. Recommendations by the State Government in regard to the teaching personnel of the privately affiliated aided colleges in the State at par with University/Government Colleges with effect from 1.1.1996, as would appear from the notification dated 24.3.1999, the same would be subject to the earlier notifications issued by the State dated 16.11.1989 and 12.3.1999 or not.

It appears that the said Circulars/Letters and/or Notifications had not been placed before the High Court. The High Court by reason of the impugned judgment has directed the State Government to grant relief as regards revision of pay as recommended by the University Grants Commission even in regard to the privately affiliated aided colleges, we are of the opinion that the matter should be considered afresh by the High Court in the light of the question raised by the parties before us.

For the reasons aforementioned, the impugned judgment is set aside and the matter is remitted to the High Court for consideration of the matter afresh as expeditiously as possible.”

Upon remittal, CWP-5615-2001 (*ibid*) came to be decided on

10.03.2016, operative portion whereof reads thus:-

“53. Hence, it is held that as regards the UGC scheme contained in the UGC notification dated 24.12.1998, the State Government is bound to implement all conditions of the policy, except as was specifically differed from by it, in the notification dated 12.03.1999, i.e. enhancement of age.

54. Thereafter, the UGC issued further guidelines on 31.08.2001, as is discernible from the file notings, which the Government of Punjab expressed its inability to adopt, due to its tight financial position. Though no letter to the Government of India or the UGC is available on file with regard to the guidelines of 2001, however, this can be seen from a noting made by the Deputy Secretary, Finance, on 28/29.10.2002, in reference to a query/recommendation made in that regard by the Principal Secretary, Government of Punjab, Department of Higher Education.

It is, therefore, made clear that what has been held by this Court hereinabove, and the directions contained hereinafter, are only in relation to the UGC notification dated 24.12.1998 and no subsequent notification issued by the UGC, as no notification issued by the State Government, after 24.03.1999, has been referred to either in the writ petitions, or even during the course of arguments before this Court. It is necessary to state this as CWP No.20054 of 2009 was obviously filed well after the notification dated 31.08.2001 but not even a reference to that notification has been made in the said writ petition.

55. Consequently, CWP No.5615 of 2001 is allowed, holding the petitioners entitled to count their past service rendered in private colleges prior to their joining

different private colleges, in terms of the UGC notification dated 24.12.1998. The respondents are directed to grant the petitioners the aforesaid benefit, within a period of three months from the date of receipt of a certified copy of this order, alongwith all arrears and other benefits that would flow therefrom. However, it is clarified that the petitioners would be entitled to the arrears as fall due to them only w.e.f. 01.01.1996, in terms of the notification dated 24.12.1998 and for no period prior to 01.01.1996.

Needless to say, if on account of the grant of benefit of past service to the petitioners in these petitions, the financial burden on the State Government is more than what was sanctioned by the Central Government, it would be open to the State Government to claim the same from the Central Government, to the extent of 80% of the additional burden, in terms of the Central Governments' commitment."

In view of the stand taken by the parties that the matter in hand is squarely covered by the judgment rendered by this Court in Dr. Mahesh Chander's case (supra), the instant writ petition is disposed of in the same terms.

24.08.2018
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No