In the High Court of Punjab and Haryana at Chandigarh

CWP No.16682 of 1999
Date of decision: November 14, 2018

Dhanwant Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Arora, Advocate for the petitioner.
Mr. H.S. Sullar, Deputy Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

The claim which has been made in the present writ petiton is for counting of the service which the petitioner had rendered in the Government Aided School, before the same was taken over by the State Government for the purposes of pensionary benefits and consequential relief.

Along with the petition, the petitioner has attached the order passed by this Court in CWP No.5005 of 1994, also during the course of hearing, the petitioner has also brought to the notice of this Court the decision rendered by this Court in CWP No.14328 of 1991 by which bunch of the writ petitions were decided involving the same questions of law.

Despite the fact that 18 years have passed, no reply has been filed by the State to the writ petition. Hence, now at this stage,

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no further opportunity can be granted to the State to delay the matter any further on account of filing of the reply.

Counsel for the petitioner has further stated that even the writ petition No.17922 of 1988 titled as **Surinder Kaur and others Vs. State of Punjab and others**, which also involves the same question of law has already been disposed of in view of the decision rendered by this Court in CWP No.14238 of 1991 decided on 10.03.2010, titled as **Sukhdev Singh and others Vs. State of Punjab and others**.

I have gone through the order passed by the co-ordinate Bench dated 10.03.2010 by which bunch of the writ petitions involving the same questions of law as to whether the teacher/master is entitled to count the services rendered by him/her in a Government Aided Privately Managed School towards the pensionary benefits upon his/her retirement from the Government service. After dealing with the Rules/Scheme framed by the Government in this regard, known as Privately Managed Recognized Aided Schools and Retirement Pensionary Scheme, 1992, it was held that an employee is entitled to count the services rendered in privately Managed Government Aided School for the purpose of pensionary benefits after the said school was taken over by the Government and an employee retired as a government employee. The relevant paragraphs of the said judgment are reproduced herein under:

> ‘‘As has already been held that after `the 1992 Scheme' came into force retrospectively w.e.f. 1987, Rule 3.16,

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Note-1 (Sr.No.2) is deemed to have been omitted and/or relaxed and the service rendered by the Teachers like the petitioners, subject to fulfillment of the conditions laid down in Pension Scheme 1992 itself, would be countable as `qualifying service' towards pension etc. in Government service.

For the reasons afore-stated, the writ petitions are allowed and the respondents are directed to count the services rendered by the petitioners in Government Aided Privately Managed Schools against the posts duly sanctioned under the Grant-in-Aid Scheme, towards their `qualifying service' for pension subject to , however, following conditions:-

1) The respondents shall call upon the petitioners to furnish their exact service particulars in respect of the service rendered by them in the Government Aided Privately Managed Schools. Such an information shall be called within a period of two months from the date of receiving a certified copy of this order and the petitioners shall furnish the same within one month thereafter;
2) The respondents shall also call upon the records of the Government Aided Privately Managed Schools and verify as to whether or not the petitioners have served in such Government Aided Schools against the posts duly sanctioned;
3) The respondents shall be at liberty to ascertain as to whether or not the petitioners had resigned from the Government Aided Privately Managed Schools to enable them to join the Government service;
4) The insignificant or small break between the two services shall be condoned in terms of Rule 7.5 (3) of CSR (Volume-I);

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5) The benefit of service rendered in Government Aided Privately Managed Schools shall be extended strictly as per the terms and conditions contained in `the Pension Scheme 1992';
6) If some of the petitioners who are still in service are found to be not entitled to the benefit of their previous service in Government Aided Schools, necessary speaking orders to this effect shall be passed by the respondents;
7) This order shall not be construed to mean acceptance of claim of the petitioners to count the service rendered by them in Government Aided Privately Managed Schools, towards their seniority, proficiency step-up or ACP etc. as the claim in the present writ petitions is confined qua pensionary benefits only;
8) The entire exercise including the payment of consequential arrears shall be completed as early as possible, preferably within a period of one year from the date of receiving a certified copy of this order.''

The said judgment in **Sukhdev Singh's case (supra)** has been relied on by this Court in CWP No.7442 of 2002 decided on 05.07.2013 as well as in CWP No.17922 of 1998 decided on 07.08.2013.

In view of the above, the present writ petition is also disposed of in the same terms and the directions given in CWP No.14238 of 1991 will be treated as a part of this order as well. As noticed earlier, while deciding CWP No.7442 of 2002(O&M), the Court has also granted 6% interest. Let the order be complied with within the period of three months from the date of receipt of a

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certified copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

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Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No

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