

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

CWP-5741-2000

Date of decision: - 14.11.2018

Sneh Lata Shastri

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Subhash Ahuja, Advocate, for the petitioner.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition the claim made by the petitioner is for regularization of her services w.e.f. 16.09.1982 instead of 01.11.1986.

The case set up by the petitioner in the present petition is that she was appointed as a Sanskrit Teacher on Ad-hoc basis on 01.12.1976. She continued to work till 31.05.1977. Thereafter, the petitioner was again appointed on Ad-hoc basis on 15.12.1980 and she continued working up to 05.07.1981. Petitioner was given eight days break. She again appointed on 14.07.1981 and continued work till 13.01.1982. After a period of one day again the petitioner was appointed on 15.01.1982 from which date she continuously work till she was regularized by the department on 01.11.1986.

In the year 1995, the Government had issued instructions to pay the salary to the teachers during the summer vacations also and the said instructions was to be applicable upon the teachers who were working from 1971 onwards. A categorical statement has been made by the petitioner in paragraph 4 of the writ petition that she has been paid the salary for the summer vacations during the period 01.12.1976 till 1984.

The State has contested the claim of the petitioner on the ground that the claim of the petitioner for regularization of her services w.e.f. 16.09.1982 instead of 01.11.1986 cannot be granted in view of that instructions dated 22.08.1984 (Annexure P-2) which was issued by the Government for regularization of the services of the employees according to which a condition was imposed that the services of only such teachers/masters/mistresses/lecturers will be regularized, who have completed two years of services as on 15.09.1982 and were working on the said date. According to the respondents, the petitioner did not complete two years continuous service on 15.09.1982 and hence, she was not entitled to be considered for regularization.

In paragraph 4 the averment made by the petitioner that she has been paid the salary for the vacation period relating to the years 1981-82 has been admitted. The relevant part of the said paragraph is as under: -

“That the Haryana Government vide its instructions dated 19.9.1995, 17.1.1996 and 16.5.1996 decided to make the payment of salaries of summer vacations also to the teachers falling during the years 1971 to 1984, copies of which are collectively attached herewith as Annexure : P.1. Accordingly, the petitioner has also

been made the payments of summer vacations falling between the periods 1.12.1976 to 1984.”

In reply to the said averments, in para 4 of the reply following has been averred: -

“That the contents of para no.4 are wrong & hence denied. In fact, the petitioner has worked as Sanskrit Teacher with effect from 1.12.1976 to 31.5.1977 and after that she worked from 15.12.80 to 5.7.81, 14.7.81 to 13.1.82, 15.1.82 to continue as per record. She had been paid the salary of summer vacations for the relating year 1981, 1982. The rest of the contents of para are admitted.”

From the facts depicted earlier it is clear that there is only a break of eight days from 06.07.1981 to 13.07.1981 and one day break in January, 1982 otherwise the petitioner is continuously working from 15.12.1980 till the date she was regularized and she has been paid the salary even for the break period. Even otherwise, these are the notional breaks given which cannot be treated as a break in service. From the above, it is clear that the petitioner had two years of service as required under instructions dated 22.08.1984 (Annexure P-2) for being regularized w.e.f. 16.09.1982.

In view of the above, the present writ petition is allowed. The respondents are directed to regularize the services of the petitioner w.e.f. 16.09.1982 instead of 01.11.1986. The salary of the petitioner be notionally fixed from the said date. *Prima facie* by this date the petitioner might has superannuated from services. In case there is need to re-fix the pensionary benefits of the petitioner in view of her regularization with retrospective effect, the same be also done.

It is made clear that fixation of salary with retrospective effect and re-fixation of pension will be notionally and the petitioner will not be entitled for any arrears for the same.

Let the order be complied with within a period of three months from the date of receipt of certified copy of this order.

November 14, 2018
naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No