

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 1411 of 2016 (O&M)

Date of decision : 17.10.2018

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Vanita Vashisth

.....Petitioner

Versus

State of Haryana and others

.....Respondents

* * * * *

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. R.K Arora, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Ms. Nitika Jaura, Advocate for

Mr. Sandeep Khunger, Advocate for respondent no.4.

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RITU BAHRI, J.

Petitioner is seeking quashing of the order dated 13.12.2013 (Annexure P-3) and order dated 12.2.2015 (Annexure P-8), whereby her claim for counting her entire service for grant of benefit of Senior/Selection Grade under Career Advancement Scheme has been declined.

The petitioner was appointed as Lecturer in Economics in Manohar Memorial College, Fatehabad run by the Manohar Memorial Education Society, Fatehabad. The petitioner joined her duties on 27.7.1999. The initial appointment of the petitioner was made on

temporary/ad hoc basis against a vacancy. Thereafter, the petitioner was given regular appointment in pursuance to her selection and appointment as per advertisement dated 7.4.2006. Her batch mates joined on 1.1.2007. The appointment of the petitioner was delayed on account of dispute of her age bar. The petitioner filed CWP No. 17182 of 2006, which was allowed in her favour on 26.11.2007 and consequently, the petitioner was allowed to join on 19.3.2008 on regular basis. The petitioner filed another writ petition regarding claim of grant of seniority and pay fixation from the date when her batch-mates were given appointment which is still pending consideration in this Court. The petitioner is seeking benefit of her ad hoc temporary service for claiming promotion under the Career Advancement Scheme. As per Regulation 10.1 (f) of UGC Regulations/Guidelines, ad hoc/temporary service of more than one year duration can be counted for consideration of claim for promotion under Career advancement scheme subject to certain conditions. Regulation 10.1 (f) is reproduced as under:-

“10.1(f) The Previous appointment was not as guest lecturer on any duration, or an ad hoc or in a leave vacancy of less than one year duration. Ad hoc or temporary service of more than one year duration can be counted provided that:

(i) the period of service was or more than one year duration;

(ii) the incumbent was appointed on the recommendation of duly constituted Selection Committee; and

(iii)the incumbent was selected to the permanent post in continuation to the ad hoc or temporary service, without any break.”

Keeping in view the above regulation, the petitioner made a detailed representation dated 12.7.2013 (Annexure P-2) requesting for grant of aforementioned benefit, but the same was declined vide letter dated 13.12.2013 (Annexure P-3). The case of the petitioner is that as per the service Certificate (Annexure P-1) issued by the Management, there were only notional breaks in the service of the petitioner and they were liable to be condoned in terms of Instructions of the Government and a judgment of this Court in the case of ***Dr. Chanchal Kumar Sharma vs. Management Committee, Maharaja Aggarsain College (CWP No. 20046 of 2010)*** decided on 16.3.2012 and another judgment in the case of ***Dr. Surinder Bala, Lecturer in Hindi, Dyal Singh College, Karnal CWP No.14662 of 2013*** which has followed the judgment in the case of ***Dr. Chanchal Kumar Sharma (supra)***. In ***Dr. Chanchal Kumar Sharma's case (supra)***, the ad hoc service rendered by Dr. Chanchal Kumar Sharma with the respondent -College as a Lecturer from 14.11.1998 to 8.4.2001 was counted for the purpose of senior scale/selection grade. The petitioner filed CWP No. 23154 of 2014 before this court seeking appropriate direction to the respondents to grant her benefit of Senior/Selection Scale under Career Advancement Scheme by counting her entire service. The said writ petition was disposed of vide order dated 13.11.2014 (Annexure P-6) with direction

to respondent no.2 that if the petitioner approaches him by moving an appropriate representation within a period of 4 weeks, he shall consider and decide the same by passing an appropriate order. In response to the order dated 13.11.2014 (Annexure P-6), the petitioner submitted her representation dated 3.12.2014 (Annexure P-7). In response to the directions of this Court in order dated 13.11.2014 (Annexure P-6), respondent no.2 passed the impugned order dated 12.2.2015 (Annexure P-8), whereby claim of the petitioner was declined on the ground that the petitioner had rendered temporary service on consolidated salary and the same cannot be treated at par with ***Dr. Chanchal Kumar Sharma's case (supra)*** as the service rendered by him was in the nature of ad hoc service.

Counsel for the petitioner has argued that on two occasions, the case of the petitioner has been rejected. Firstly, vide order dated 13.12.2013 (Annexure P-3), the case of the petitioner was rejected on the ground that her service was not without a break and therefore, the case for grant of benefit of previous service is not covered under the conditions mentioned in the Instructions issued by the Government dated 8.12.2000. Subsequently, vide impugned order dated 12.2.2015 (Annexure P-8), claim of the petitioner was declined on the ground that the petitioner had rendered temporary service on consolidated salary and the same cannot be treated at par with ad hoc service rendered by Dr. Chanchal Kumar Sharma.

On notice, a reply has been filed by respondents no. 1 to 3 taking a stand that on the basis of the Govt. Instructions dated 8.12.2000, the case for granting the benefits of previous service towards

senior/selection grade was declined to the petitioner vide letter dated 13.12.2013 (Annexure P-3). The Government Instructions dated 8.12.2000 have been placed on record as Annexure R-1. According to the said Instructions, the previous service for the purpose of granting selection scale the following requirements are to be fulfilled:-

“9. Counting of past service:-

Previous service, without any break a Lecturer or equivalent, in a university, college, national laboratory or other scientific organizations e.g. CSIR, ICAR, DRDO, UGC, ICSSR, ICHR and as a UGC Research Scientist, should be counted for placement of lecturers in Senior scale/Selection Grade provided that:-

i) xxxx

ii)xxxx

iii)xxxx

iv)xxxx

v) xxxx

vi)The appointment was not ad hoc or in a leave vacancy of less than one year duration. Ad hoc service of more than one year duration can be counted provided;

a)The ad hoc service was of more than one year duration.

b)The incumbent was appointed on the recommendation of duly constituted selection committee; and

c)The incumbent was selected to the permanent post in continuation to the ad hoc service, without any break.”

It was further submitted in the reply that the petitioner was appointed by the Governing Body on contractual basis on consolidated salary and not on ad hoc basis. As per certificate Annexure R-2 issued by the Manohar Memorial P.G College, Fatehahab dated 28.1.2017, the petitioner worked against a purely temporary vacancy on contractual basis and had been paid consolidated salary per month and service book and personal file of contractual employees is not maintained by the College. The petitioner was never appointed against a permanent post and there was a break in service. It is further submitted in para 9 of the written statement that the case of the petitioner is not covered under the CWP No.20046 of 2010 titled Dr. Chanchal Kumar Sharma vs. Managing Committee MA College, Jagadhri. Dr. Chanchal Kumar was appointed on ad hoc basis in Maharaja Aggarsen College, Jagadhri while the petitioner was appointed on contractual basis on consolidated salary with breaks.

In a separate written statement filed by respondent no.4, it is stated that respondent no.4 has reiterated that the petitioner was appointed purely on temporary basis from time to time keeping in view the workload and the petitioner was paid a consolidated amount. As the petitioner was working purely on contract basis, therefore, neither the service book nor the personal file of the contractual employee was maintained by the College. A copy of the advertisement whereby the petitioner was appointed on

temporary basis has also been annexed with the reply as Annexure R-4/1. From the perusal of the advertisement, it is clear that the appointment of the petitioner was purely contractual on a consolidated salary. It has been further submitted in the reply that the case of the petitioner was not similar to that of ***Dr. Chanchal Kumar Sharma's case (supra)***. Dr. Chanchal Kumar Sharma rendered his service on ad hoc basis whereas the petitioner was appointed on purely temporary/contract basis. Therefore, the petitioner cannot equate herself with Dr. Chanchal Kumar Sharma. It is not only the mode of salary of an employee which is the consideration. As a matter of fact, the petitioner has worked only for about 8 months in a year keeping in view the workload. Therefore, it is wrong that there is no break except that of a notional break or break during summer vacations.

After hearing counsel for the parties, I am of the view that the present writ petition deserves to be dismissed. Government Instructions dated 8.12.2000 (Annexure R-1) which have been placed on record by respondents no. 1 to 3 has laid down the criteria for counting the past service for the purpose of placement of lecturers in Senior scale/Selection Grade. The petitioner is seeking benefit of past ad hoc service and as per the Instructions dated 8.12.2000 (Annexure R-1), ad hoc service can be counted for placement in senior scale/Selection Grade provided that (vi) The appointment was not ad hoc or in a leave vacancy of less than one year duration. Ad hoc service of more than one year duration can be counted provided; a) The ad hoc service was of more than one year duration. b) The incumbent was appointed on the recommendation of duly constituted

selection committee; and c) The incumbent was selected to the permanent post in continuation to the ad hoc service, without any break.

To examine the present case in view of the above said conditions, the certificate issued to the petitioner by the respondents dated 28.1.2017 (Annexure R-2), is hereby reproduced as under:

<i>Sr. No.</i>	<i>Session</i>	<i>Salary</i>
1	27.7.1999 to 15.3.2000	2500/-
2	01.08.2000 to 15.3.2001	2500/-
3	16.7.2001 to 15.3.2002	2500/-
4	16.7.2002 to 15.3.2003	3500/-
5	16.7.2003 to 15.3.2004	3500/-
6	20.07.2004 to 15.3.2005	4500/-
7	26.7.2005 to 16.3.2006	5500/-
8	01.08.2006 to 15.03.2007	6000/-
9	16.7.2007 to 15.3.2008	8000/-

A perusal of the above said chart shows that the petitioner has never worked continuously for one year on ad hoc basis. Hence the petitioner does not fulfill the condition as laid down in Instructions dated 8.12.2000 (Annexure R-1) for grant of placement in the senior scale/selection grade. From the above chart, it is clear that the petitioner was engaged as lecturer on sessions to session basis against a temporary vacancy on contractual basis and on consolidated salary. Hence she never worked for more than one year continuously. Thus, the petitioner does not fulfill the conditions of the Instructions. Her case has been rightly rejected vide order dated 12.2.2015 (Annexure P-8). Moreover, the case of the

petitioner was not similar to that of *Dr. Chanchal Kumar Sharma's case (supra)*. Dr. Chanchal Kumar Sharma rendered his service on ad hoc basis, whereas the petitioner was appointed purely on temporary/contract basis.

In view of all that has been discussed above, the present writ petition is dismissed

17.10.2018
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No