

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

**CWP No.17480 of 2017  
Date of decision: 02.07.2019**

**Vishal Arora**

**.....Petitioner**

**Versus**

**State of Haryana and another**

**.....Respondents**

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

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

Mr. Kiran Pal Singh, AAG, Haryana.

\*\*\*

**Ritu Bahri, J.**

Petitioner is seeking quashing of the order dated 08.10.2013 (Annexure P-9), whereby his claim for counting of previous service has been rejected.

The petitioner had applied for the post of Lecturer in Civil Engineering in Guru Nanak Dev Engineering College, Ludhiana and was appointed on the said post vide appointment letter dated 28.06.2006 (Annexure P-1) in the pay scale of Rs.8000-275-13500 plus other allowances. The said college was receiving grant-in-aid from the Government against duly sanctioned post and also had contributed towards provident fund. Petitioner rendered his services on regular basis in the said college w.e.f. 14.07.2006 to 29.06.2009. Copies of ACRs have been attached as Annexure P-2 (Colly.). As per certificates dated 29.06.2009 & 24.07.2009 (Annexures P-3 & P-4) issued by the aforesaid college, work

and conduct of the petitioner was found to be good. Thereafter, pursuant to

the advertisement issued by respondent No.1, petitioner was appointed as Lecturer in Civil Engineering and was posted in Guru Brahm Nand Ji Government Polytechnic Nilokheri, Karnal on the pay scale of Rs.9300-34800 plus grade pay of Rs.5400/- vide appointment letter dated 28.02.2009 (Annexure P-5). After completing probation period of two years, he was confirmed as Lecturer in Civil Engineering on regular basis. Thereafter, he made a representation dated 23.01.2012 (Annexure P-6) to the respondents for counting his previous service rendered in Guru Nanak Dev Engineering College, Ludhiana, Punjab from 14.07.2006 to 29.06.2009 and grant of pay protection, ACP etc. along with all consequential benefits. Vide letter dated 01.06.2012 (Annexure P-7), certain documents were sought from the petitioner. He completed all the formalities by submitting the documents and gave another representation dated 18.09.2012 (Annexure P-8). He also undertook that he was ready to deposit his share of CPF as per the conditions laid down by the respondent-Directorate. Vide impugned order dated 08.10.2013 (Annexure P-9), claim of the petitioner has been rejected by respondent No.2.

Petitioner is seeking the benefit of Approval Process Handbook 2015-16 (Annexure P-10), whereby technical institutions i.e. Govt., Govt. aided and un-aided Private Institutes are being set up for technical education under All India Council for technical Rules and Regulations across the country. Guru Brahm Nand Ji Govt. Polytechnic, Nilokheri, Karnal is shown as approved institute in the list of All India Council for Technical Education of the year 2015-16 (Annexure P-11).

Learned counsel for the petitioner has argued that as per notification dated 08.11.2012 (Annexure P-12), the past service rendered in

private/local body/Govt. has to be considered for counting past service and no distinction is to be made with reference to the nature of management of the institute, where previous service was rendered. He has referred to a judgment passed by Division Bench of this Court in S.M. Acharya vs. State of Haryana and another, 2008 (1) SCT 804, where the petitioner was working as Lecturer in different colleges and also worked in affiliated college admitted to grant-in-aid. On his appointment in Haryana, he had deposited his and his employer's contribution towards EPF. It was held that in case, on account of some official lapse, the deposit made by the petitioner was not accounted for, he (employee) cannot be made to suffer. Ultimately, he was held entitled for the benefit of his entire service of both States. The aforesaid judgment was challenged before Hon'ble the Supreme Court by way of SLP, which was dismissed on 30.05.2014. Thereafter, the said judgment has been followed by this Court in CWP No. 2413 of 2016, CWP No.3295 of 2011, CWP No.14360 of 2008, CWP No.25683 of 2014 and CWP No.18972 of 2013 (Annexure P-13 Colly.)

Upon notice, written statement on behalf of the respondents has been filed, wherein judgment passed by the Division Bench of this Court in S.M. Acharya's case (supra) has not been disputed. It was submitted that the petitioner has challenged the impugned order dated 08.10.2013 (Annexure P-9) in the year 2017 i.e. after a lapse of about four years. It has been further stated that while applying for the present post, petitioner did send his application through proper channel. Moreover, he has not submitted 'No Objection Certificate' from his previous employer before joining the service with the respondent-department. Vide letter dated 01.06.2012 (Annexure R-I), the petitioner was informed that as per Govt.

instructions, benefit of past service is given only to those employees, who have applied for any post in other department through proper channel. In case, they have applied through proper channel, after selection, they have to be relieved from the office/department of their past service and only then, they will join their new place of posting in other department(s). Vide aforesaid letter, petitioner was asked to submit following documents:-

1. The proof of submission of application through proper channel from past service Department to this department/HPSC.
2. Relieving Certificate from the past service office/department.
3. NOC from past service department.

The petitioner has not submitted the above said information/documents. Further stand taken is that as per amendment dated 11.11.2008 in the Service Rules of the Technical Education Department (Annexure R-2), only service rendered in the Department of Technical Education, Haryana on regular basis, can be counted for getting further benefits. However, as per Assured Career Progression (ACP) Rules, 2008, the person should be eligible for benefit of promotion to the next higher post after rendering regular satisfactory service of certain number of years. Various cadres of teaching faculty and technical supporting staff of respondent-department have been granted the Pay Structure/ACP Pay Structure as per Rules issued vide Govt. notification dated 18.10.2011 (Annexure R-3). As per these rules, Ist ACP is granted after completion of six years of regular satisfactory service. The petitioner has been granted the benefit of Ist ACP vide order dated 29.03.2016 (Annexure R-4) w.e.f. 01.08.2015 when he completed the requisite regular satisfactory service. It has been further stated that claim of the petitioner for grant of Career Advancement Scheme (CAS) as per AICTE guidelines is not maintainable.

The alleged past service rendered by the petitioner in Guru Nanak Engineering College, Ludhiana cannot be counted for grant of ACP. Finally, it has been submitted that in the absence of 'No Objection Certificate' (NOC) and as per Haryana Technical Education Department (Group 'B') Rules, 2001, claim of the petitioner has been rightly rejected vide impugned order dated 08.10.2013 (Annexure P-9).

After hearing learned counsel for the parties and going through the contents of petition as well as written statement, the writ petition deserves to be dismissed. A perusal of impugned order dated 08.10.2013 (Annexure P-9) shows that the petitioner had been informed that his previous services rendered in Guru Nanak Dev Engineering College, Ludhiana cannot be counted for service benefits after joining the Department of Technical Education, Haryana. The respondents have placed on record copy of letter dated 01.06.2012 (Annexure R-1), whereby petitioner was informed that benefit of past service is given only to those employees, who have applied for any post(s) in other departments through property channel. After selection, they have to be relieved from the office/department of their past service and only then, they can join new place of posting in other departments. In response to the letter dated 01.06.2012 (Annexure R-1), petitioner gave his reply dated 04.07.2012 accepting that he had not applied through proper channel for this job in the present department and he did not have any NOC from the last employer. Thereafter, vide letter dated 12.09.2012, petitioner was again asked to submit the proof regarding submission of application through proper channel and NOC issued from his past department i.e. Engineering College, Ludhiana. Finally, vide letter dated 20.12.2017, his claim for counting

previous service rendered in Guru Nanak Dev Engineering College, Ludhiana has been rejected on the ground that neither he had applied through proper channel nor submitted his NOC in the department. As per aforesaid letters, the petitioner himself admitted that he had never applied through property channel and was never issued NOC from the last employer. Keeping in view the above fact, impugned order dated 08.10.2013 (Annexure P-9) declining the claim of petitioner for grant of benefit of past service rendered in Guru Nanak Dev Engineering College, Ludhiana, has been rightly declined by the respondents. The impugned order was passed on 08.10.2013 and the present petition challenging the said order, has been filed by the petitioner in the year 2017 i.e. after a gap of almost 04 years. On the ground of delay itself, the present petition deserves to be dismissed. As per notification dated 18.10.2011 (Annexure R-3), petitioner has been given the benefit of Ist ACP vide order dated 29.03.2016 (Annexure R-4) w.e.f. 01.08.2015. Since the petitioner had not applied through proper channel and had not obtained any NOC from the past employer, no case is made out to give him the benefit of ACP after counting the service rendered by him in Guru Nanak Dev Engineering College, Ludhiana.

In view of the above discussion, no ground is made out to interfere in the impugned order dated 08.10.2013 (Annexure P-9). Resultantly, finding no merits, the present petition is dismissed.

02.07.2019  
ajp

(RITU BAHRI)  
JUDGE