

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

(203)

CWP-5021-2012

Date of Decision: May 03, 2019

Gurdial Singh

.. 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. Mehardeep Singh, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the claim of the petitioner is that the service, which the petitioner had rendered in an aided school in the State of Haryana should be taken as a qualifying service while computing his pensionary benefits.

As per the facts stated in the writ petition, petitioner initially joined the Sri Guru Nanak Khalsa Senior Secondary School, Yamuna Nagar as Social Vernacular Teacher on regular basis on 23.08.1982. The said school is an aided school by the Government of Haryana and petitioner served the said school till 31.12.1989. Thereafter, the petitioner was selected as S.S. Master in the Department of Education, Government of Punjab and he ultimately joined on the new assignment with the Government of Punjab on 05.01.1990. While working on the post of S.S. Master in the State of Punjab, petitioner ultimately retired from service on 28.02.2011. After the retirement, petitioner raised a grievance with regard to the fact that his service which he has rendered

with Sri Guru Nanak Khalsa Senior Secondary School, Yamuna Nagar from 23.08.1982 till 31.12.1989 has not been taken as a qualifying service for computing the pensionary benefits.

The claim of the petitioner, in the present writ petition, is for issuance of a direction to the respondent-State of Punjab to consider the service rendered by him from 23.08.1982 till 31.12.1989 in an aided school in the State of Haryana as a qualifying service for computing the pensionary benefits.

Upon notice of motion, the respondents have filed the reply.

In the reply, it has been stated by the respondents that none of the rules governing the service allow the benefit of service, which an employee has rendered with the Government of Haryana to be computed as a qualifying service for the grant of the pensionary benefits as there is no reciprocal agreement of Government of Punjab with the Government of Haryana to count the service rendered by an employee in an aided institution in the Government of Haryana to be counted as a qualifying service. It has been further mentioned in the written statement that the similar plea raised by one Mrs. Ranjit Nahar has already been rejected by this Court and therefore, keeping in view the settled principle of law settled by this Court, the claim of the petitioner is liable to be rejected.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is an admitted fact that the petitioner served Sri Guru Nanak Khalsa Senior Secondary School, Yamuna Nagar from 23.08.1982 till 31.12.1989 but whether the said service can be taken as a qualifying service for computing the pensionary benefits or not, is to be

seen by the rules governing the service.

Counsel for the petitioner has been unable to cite any rule according to which the benefit of the service rendered by an employee in an aided institution with the Government of Haryana can be taken as a qualifying service for computing the pensionary benefits by the Government of Punjab. In the absence of any rule, the claim of the petitioner cannot be allowed by the Government of Punjab.

There is a precedent wherein, the same relief as being sought in the present writ petition, has been rejected by the Division Bench of this Court while deciding **CWP No.7694 of 1998 titled as Ranjit Nahar Vs. State of Punjab and others, decided on 02.08.2000.**

In the said case also, Mrs. Ranjit Nahar, who had worked as a teacher in the Government Middle School, Jamawari, District Hisar and thereafter as a Social Study Mistress in Govt High School, Mandi Dabwali, Haryana, was selected as a Head Mistress with the Government of Punjab in the year 1977. This Court rejected the claim of Mrs. Ranjit Nahar for computing the service rendered by her with the Government of Haryana in an aided institution as a qualifying service. The relevant portion of the judgment is as under:-

“ As per the averments made in the writ petition the petitioner had joined as Mistress in Government Middle School, Jamawari, District Hisar, on six months basis. Thereafter on July 15, 1968 she joined as a Social Study Master in Government Girls High School, Mandi Dabwali (Haryana) on regular basis. In January 1977, the Punjab Public Service Commission had invited applications for the post of Head Mistress. The petitioner applied for the said post through proper channel i.e. Head Mistress

Government Girls High School, Mandi Dabwali. The petitioner was selected for the post of Head Mistress and was appointed as such on September 3, 1977, she made a representation on November 15, 1996, copy annexure P-5 that the service rendered by her in the Haryana State Education Department be counted by the State of Punjab for pension and other benefits. Since the representation had not been decided the petitioner filed a writ petition No.16070 of 1997 claiming the aforesaid relief. That writ petition was disposed of on October 24, 1997 directing the respondents to dispose of the petitioner's representation.

The representation has been rejected vide order dated April 21, 1998, copy annexure P-9. Hence the present writ petition.

The primary reliance of the petitioner for getting the benefit of the service in Haryana is on the instructions dated May 20, 1982. Copy annexure P.4 issued by the Punjab Government. These are the instructions which were issued by the Punjab Government in consultation with the Government of India regarding the sharing on reciprocal basis, the proportionate pensionary liability in respect of those temporary employees who have rendered temporary service under the Central Govt./ State Govt. prior to securing posts under the State/ Central Govt. on their own volition in response to advertisement or circulars, including those by the State/ Union Public service Commission and who are eventually confirmed in their new posts.

We have perused the circular. This was a bipartite decision between the Punjab Government and the Central Government that in case a temporary Central Government employee ultimately gets a Government job in the Punjab State and is confirmed and retires then benefit of the

previous service rendered in the Central Government may be counted for pensionary benefits and the liability of pension was to be borne proportionately.

This agreement was vice versa also i.e. a temporary Punjab State Government employee getting a job in the Central Government. This circular will not apply between the Haryana State and the Punjab State because there is no such agreement or decision between the State of Haryana and the State of Punjab. No rules or regulation has been brought to our notice of the State of Punjab to count the service of a Government employee, who may have rendered service in the State of Haryana. Consequently, we do not find any infirmity in the impugned order, copy annexure P.9 dated April 21, 1998. The writ petition is dismissed.”

Counsel for the petitioner is unable to point out any differentiating fact between the judgment of the Division Bench rendered in CWP No.7694 of 1998 and the case of the petitioner in respect of the claim as made in the present writ petition. Once, the Division Bench has already declined the claim under similar circumstances, the petitioner cannot be allowed the same benefit.

Hence, the claim of the petitioner is rejected and the writ petition is dismissed without any order as to cost.

(HARSIMRAN SINGH SETHI)
JUDGE

May 03, 2019
harsha

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