

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

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**CWP No.18379 of 2018
Decided on : 06.12.2019**

Dr. Saroj Sharma

... Petitioner

Versus

Panjab University and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Amit Jhanji, Advocate
for the petitioner.

Ms. Balpreet Sidhu, Advocate
for the respondents.

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India seeks quashing of the letter dated 11.06.2018 (Annexure P-13), whereby her claim for the benefit of enhanced pension under Regulation 3.9 of the Panjab University Employees (Pension) Regulations, 1991 (for short '1991 Regulations') was denied w.e.f. 20.06.2006, on the ground that the benefit had been granted w.e.f. 18.06.2012, prospectively, as per the decision taken by the University in principle for all employees/teachers.

Counsel for the petitioner has submitted that the matter is covered by the judgment of the Coordinate Bench of this Court passed in **CWP No.21795 of 2014 'Professor Vinod C. Nanda and others Vs. Vice Chancellor, Punjab University and another'** decided on 09.01.2017 (Annexure P-9), which was further upheld in **LPA No.460 of 2017 'Vice**

Chancellor, Panjab University and another Vs. Professor Vinod C. Nanda and another' decided on 10.10.2017 (Annexure P-10).

Counsel for the respondent-University is not a position as such to deny this factual aspect.

The controversy in nut shell is that the petitioner had retired on 31.08.2003 from the University having joined as a Reader and Professor in Panjab University on 31.01.1981. She had a qualifying service of 22 years, 07 months and 1 day and at that time was governed under Contributory Provident Fund-cum-Gratuity Scheme and had taken the entire retiral benefits under the said scheme. On account of the pension scheme being introduced w.e.f. 24.10.2005, as per the 1991 Regulations, she had opted for the same, while depositing a sum of ₹8,52,677/- towards the share of University's Contributory Pension Fund on 16.06.2006 and, thereafter, started getting pension from 20.06.2006 (Annexure P-2).

The benefit of Regulation 3.9 was sought whereby an employee is eligible to add service qualifying for the superannuation pension, on account of possessing a Postgraduate Research or specialized qualification or experience in Scientific Technology or professional field and having joined after 25 years of age.

It is not disputed that the petitioner as such is entitled for the benefit of Regulation 3.9, as per the impugned order itself, whereby the she has been granted the said benefit from 18.06.2012. The denial is on account of a decision taken by the Vice-Chancellor on 18.06.2012

(Annexure P-3) without amending the regulations.

The Division Bench in **LPA No.460 of 2017 (supra)** has specifically held that the substantive provision of the regulations could not be superseded by the said decision dated 18.06.2012 and a date could not have been fixed for the enforcement of the said benefit of Regulation 3.9, by virtue of said decision. The relevant portion of the said judgment reads as under:-

“On 18.06.2012, the University gave out a circular which was in approval of the proceedings of the Committee with respect to addition of five years to the qualifying service under the pension regulation 3.9 of the Panjab University Employees (Pension) Regulation 1991 which is extracted here-in-below:-

“This benefit shall be allowed only to a candidate:

(i) Who at the time of appointment has attained the age of 25 years and the essential requirements of such posts requires Post-Graduate Research or specialized qualification or experience in Scientific Technology or Professional Field.

(ii) The benefit in terms of years which shall be added to the qualifying service shall depend upon the actual Post-Graduate Research or experience which a candidate has at the time of employment. It shall be decided on case to case basis depending upon the terms and conditions of the Advertisement, Post-Graduate Research, experience etc. of the candidate at the time of appointment.”

This clause was used to deny the benefit to the respondents who question it by way of writ petition resulting in the impugned order where the benefit was granted to them by the writ Court. The learned Single Judge reasoned that by virtue of this clarificatory circular, the substantive provision of the regulation could not be superseded and we cannot find fault with this reasoning. If the appellants intended to make

effective a change in the qualifying service, they necessarily needed to amend the regulation and could not have done by way of a circular simpliciter.

We, thus, do not find any merit in the present appeal. However, delay in filing the appeal is condoned as sometime was consumed in pursuing the review application before the learned Single Judge.”

Resultantly, from the above observations of the Division Bench, it would be clear that position of law has been clarified regarding the enforceability and the applicability of Regulation 3.9 and the benefits that it cannot be curtailed by virtue of a executive instructions. The impugned order is based on the said reasoning and the decision dated 18.06.2012 and, thus, cannot sustain.

Accordingly, the impugned order dated 11.06.2018 (Annexure P-13) is quashed. Resultantly, a writ in the nature of mandamus is issued to the respondents to act on the representation of the petitioner (Annexure P-11) and grant the necessary benefits of Regulation 3.9 from 20.06.2006. Needful be done within a period of 2 months, by paying the arrears alongwith interest @ 9% per annum, from the receipt of the certified copy of this order.

DECEMBER 06, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No