

CWP-6595-2015

-1-

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

CWP-6595-2015

Date of Decision: 15.01.2019

F.S.Chaudhary

... Petitioner

vs.

**Chaudhary Charan Singh Haryana Agriculture University, Hisar and
others**

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.Sudhanshu Makkar, Advocate
for the petitioner.

Mr. Naveen Chopra, Advocate
for respondents No. 1, 2 and 7.

Mr. Ravi Partap, AAG, Haryana
for respondent No.3.

Mr. Amit Singla, Advocate
for respondent No.5.

HARSIMRAN SINGH SETHI, J

In the present writ petition, the petitioner is claiming that the service which he had rendered with respondent No.6-Janta Vedic College, Bagpat, from 11.08.1959 to 20.09.1979, be counted as a qualifying service in view of the provisions of pension scheme governing the Haryana Agriculture University, Hisar.

The facts which have been narrated in the petition are that the petitioner joined as a Lecturer in Statistics with respondent No.6-Janta Vedic College, Bagpat on 11.08.1959. He was appointed against a permanent post and the said college was affiliated to Chaudhary Charan Singh University, Meerut (formerly known as Meerut University, Meerut). It is an admitted position now that respondent No.6 is an aided college receiving grant in aid

CWP-6595-2015

-2-

from the Government of Uttar Pradesh. The post on which the petitioner was working, became a pensionable post in April 1979. The petitioner continued working with respondent No.6-College till 20.09.1979.

In the year 1979, Chaudhary Charan Singh Haryana Agriculture University, Hisar, issued an advertisement for the post of Deputy Director (Statistics). The petitioner, who was fully eligible, applied for the said post while he was working with respondent No.6-college. The said application was made through proper channel and after clearing the process of interview, the petitioner was appointed to the said post, vide appointment letter dated 09.08.1979 (Annexure P1).

In view of the said appointment, the petitioner was relieved from his duty on 20.09.1979 from respondent No.6-college and on the very next day i.e.21.09.1979, the petitioner joined as a Deputy Director (Statistics) at C.C.S.HAU, Hissar. There is no break in the service. While the petitioner was working as a Deputy Director (Statistics) with respondent No.1-University, the pension scheme was formulated by respondent No.1, which became effective w.e.f. 01.01.1992. The employees, who were working with respondent No.1-University were given an option to opt for the same and it is a matter of fact that the petitioner opted for the said scheme. While the petitioner was in service, he started making correspondence with the respondent(s)-University to grant him the benefit of service which he has rendered with respondent No.6-college while computing his qualifying service, as his case was squarely covered by Clause 3.3 (i) of the Pension Scheme. The said Clause of the pension scheme reads as under:-

(i) The existing employee who has served the Central Govt. or any State Govt. or Autonomous body established under the Central/State Law, has been absorbed in

- Haryana Agriculture University service in the public interest or who has come over/joined the University service after rendering service in the Central/State Govt./Autonomous Body can get his past service counted towards pension if he refunds the terminal retirement benefits received, if any, by him from such Govt./Autonomous Body for the service rendered there, to this University alongwith interest thereon at the rates as applicable to CPF/GPF accumulations fixed from time to time by the University from the date of receipt of these benefits till the date of deposit with the University.*
- (ii) An employee who has retired during the period from introduction of pension to the date of notification of the Statutes and is in receipt of pension etc. from his previous employer and opts to get his past service counted towards pension in the University shall have to refund the amount equal to the terminal retirement benefits received by him till retirement from the University alongwith interest at the rates as applicable on CPF/GPF accumulations fixed from time to time thereon from the date of receipt of benefits till the date of deposit with the University and then his past service shall be counted towards pension in the University.*

Note: These provisions are applicable to the employees who were in service on 7.2.1986 irrespective of the date of their absorption.”

It has been contended by the petitioner in the present writ petition that without seeking actual information about the status of respondent No.6-college, an order was passed on 15.01.1994, rejecting his claim on the ground that respondent No.6-college is a private college and hence, he is not covered under Clause 3.3 (i) of the Chaudhary Charan Singh Haryana Agriculture University' Statutes.

CWP-6595-2015

-4-

After the rejection of the case, the petitioner superannuated on attaining the age of 60 years on 31.01.1994. After retirement, the petitioner again made a representation on 28.08.1994, wherein, the petitioner stated that he had 34 years service to his credit and respondent No.6-college is not a private college and, therefore, his case has wrongly been rejected i.e. not taking into considering the service rendered by him with respondent No.6 from 11.08.1959 till 28.09.1979 and hence needs reconsideration. In this regard, the petitioner also submitted a memorandum to the Chancellor/Chairman of the Management of respondent No.1 on 30.05.1995. The request of the petitioner was again rejected by respondent No.1, vide order dated 12.02.1996 (Annexure P12). Not feeling satisfied by this, the petitioner approached respondent No.3-State of Haryana and as well as his Excellency, Governor of Haryana, vide representation dated 09.08.2008 (Annexure P16). The said request was also rejected on 21.08.2008 (Annexure P17).

The orders dated 15.01.1994 (Annexure P7), 09.03.1995 (Annexure P10), 12.02.1996 (Annexure P12) and the order dated 21.08.2008 (Annexure P17) have been impugned by the petitioner in the present writ petition.

The present writ petition has been filed in the year 2015, approximately, after 07 years of the order dated 21.08.2008 (Annexure P17) being passed against the petitioner.

In the writ petition, the petitioner has impleaded the college, where the petitioner worked from 11.08.1959 till 20.09.1979. as respondent No.6.

Learned counsel for the petitioner states that the only reason given by the respondent(s) for declining the claim of the petitioner is that respondent

No.6-college is a private college and is not an aided college and, therefore, the case of the petitioner is not covered under Clause 3.3 (i) of the HAU, Pension Scheme. Respondent No.5-Chaudhary Charan Singh University, Meerut (formerly known as Meerut University, Meerut), has filed reply to the writ petition, wherein, the said University had admitted that respondent No.6-college is one of the government-aided college and the same is affiliated to respondent No.5-University. Further, it has been mentioned that the teachers and the employees of the said college are provided with the pensionary benefits from the State which falls under the State Pension Scheme since April 01, 1979, when the petitioner was still working with the said college. Further, the relevant averments made by respondent No.5 in this regard are as under:-

“1. That the petitioner has arrayed Chaudhary Charan Singh University (formerly known as Meerut University, Meerut) as respondent no.5 Janta Vedic College, Baraut, Baghpat, respondent no.6 is one of the government-aided and affiliated college of the answering respondent. The Teachers and other employees of these colleges are provided pensionary benefits from the State Funds under the State pension scheme since April 1, 1979.

2. That all these government-aided colleges of the State of Uttar Pradesh are pensionable Institutions under the state pension scheme and are financed substantially with government aids which are regulated under the provisions of the Act & Statutes of the State University Act. 1973 and State Government Orders. The salary payment of teachers and other employees of such colleges against the sanctioned posts are made from the State Funds under the provisions of Section 60E of the State University Act, 1973, the section provides as:

“The State Government shall be liable for payment of salaries against such posts of teachers and employees of every such colleges that was taken in

grant-in-aid list by the State Government on or after March 31, 1975”.

A copy of list of such colleges (A part thereof including the college respondent no.6) is being reproduced hereinbelow for the kind perusal of this Hon'ble Court:-

- 1. Meerut College, Meerut.*
- 2. Amar Singh College, Lakhaoti, Bulandshahr.*
- 3. Nathimal Ramasahai Mai Edward Coranation College, Khurja, Bulandshahr.*
- 4. Raghunath Girls College, Meerut.*
- 5. Digambar Jain College, Baraut, Meerut.*
- 6. Mahanand Mission Harijan College, Ghaziabad.*
- 7. Janta Vedic College, Baraut, Meerut.*
- 8. Sanatan Dharam College, Muzaffarnagar.*
- 9. Daya Nand Anglo Vedic College, Muzaffarnagar.*

The payment of salary of teachers and employees of the college respondent no.6 are made with the State Funds since then. The petitioner was on the strength of the college on this date.

3. That the pensionary benefits of these aided non government college of the State of Uttar Pradesh are paid by the State Treasury and Director of Higher Education, Uttar Pradesh, Allahabad, under the State Government as per provisions of the Government Order dated 28.04.1980.

4. That CPF contributions of the employees of these pensionary establishment are deposited with the state treasury towards pensionary benefits. Janta Vedic College, Baraut, respondent no.6 deposited a sum of Rs.20,110/- on 29.01.1989 as CPF contribution towards petitioner's pensionary benefits in state treasury. The respondent no.7 Director Research, Chaudhary Charan Singh Haryana Agriculture University, Hisar was provided information as sought vide Annexure P-6 of the writ petition.

5. That the Respondent No.6 Janta Vedic College Baraut District Baghpat is an aided college affiliated to Respondent No.5. The employees of such aided colleges

had availed benefits of contributory Provident Fund till 1" April 1979 subsequent thereto as pension benefits were granted by the State of U.P., the employer's contribution to the corpus to the C.P.F. Act was transferred to State of U.P. and the employees were given it's benefits."

Counsel for the parties have been heard and I have gone through the record of the case with their assistance.

The question to be decided in the present writ petition is as to whether, once respondent No.6 is an aided college and the same was receiving grant-in-aid from the State of Uttar Pradesh in respect of the post on which the petitioner was working, whether the said period of service can be counted as a qualifying service in view of the provisions of Clause 3.3 (i) of the Pension Scheme applicable in the Haryana Agriculture University, Hisar

A bare perusal of Clause 3.3 (i) of the Pension Scheme, reproduced earlier in this order clearly states that the existing employee, who has served with the Government, Central Government or any State Government or Autonomous Body established under the Central/State law and is absorbed in Haryana Agriculture University, can get his past service counted towards pension if he refund the terminal retirement benefits with interest received from such Government/Autonomous Body for the service rendered there. Once respondent No.6-college was an aided college and the same was funded by the Government of Uttar Pradesh and the salary to the petitioner was being paid out of the State funds, it cannot be said that the service, which the petitioner rendered with respondent No.6-college, is not covered under the definition of Clause 3.3 (i) of the Pension Scheme reproduced hereinbefore. Once the petitioner was paid out of the State funds, the said service is to be treated as a service rendered with the State Government for all intents and

purposes.

Further, the post, on which the petitioner was working with respondent No.6-college, became a pensionable post w.e.f. 01.04.1979 and all the pension dues were to be paid by the State Government and had the petitioner continued working there till his date of superannuation, he would have become entitled for the pension there. The fact that respondent No.6-college is an aided college has been accepted by respondent No.5-University and the counsel appearing on behalf of respondent No.1 is not in a position to dispute the same. That being so, the rejection of the case of the petitioner on an earlier occasion by respondent No.1 by assuming/treating respondent No.6-college as a private college was contrary to the facts and impugned orders are set aside.

In view of the above, it is held that the service which the petitioner rendered with respondent No.6-college from 11.08.1959 till 20.09.1979, is to be counted as qualifying service for grant of pensionary benefits to him, by respondent No.1-University.

Counsel for the petitioner undertakes that the petitioner will deposit all the funds, which he had received from respondent No.5-college, alongwith interest, as mentioned in Clause 3.3 (i) of the Pension Scheme, with the respondent No.1-University within a period of two months from today. Upon receipt of the said deposit, respondent No.1-University shall re-calculate the grant of pensionary benefits to the petitioner by taking into consideration the service which he has rendered with respondent No.6-college from 11.08.1959 till 20.09.1979 as qualifying service for the grant of pension. The re-calculation be done within a period of 02 months after the deposit of the dues by the petitioner.

CWP-6595-2015

-9-

Whatever the dues for which the petitioner has become entitled for, he shall be paid the difference within a period of next two months alongwith interest at the same rate on which petitioner will deposit the fund received from respondent No.5-college.

The writ petition stands allowed in the above said terms.

15.01.2019
smriti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No