

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

CWP No.611 of 2016

Date of decision : 29.4.2019

Dr.Anil Kumar Narwal

...Petitioner

Vs.

**Deenbandhu Chhotu Ram University of Science & Technology
Murthal**

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Manjeet, Advocate for
Mr.S.K.Malik, Advocate for the petitioner.

Mr.R.K.Ravesh, Advocate for respondent No.1.

RITU BAHRI, J. (ORAL)

The petitioner was working as Lecturer in Mechanical Engineering at Technology Institute of Textile & Sciences, Bhiwani. He has worked on ad hoc basis from 14.8.2002 to 30.9.2002 and thereafter on regular basis w.e.f. 1.10.2002 in this Institute vide Annexures P-2 and P-3. Thereafter, his appointment was approved by the affiliating University i.e. Chaudhary Devi Lal University, Sirsa vide letter dated 6.8.2004 (Annexure P-4) and the approval was granted with effect from 1.10.2002 that the petitioner can only teach upto degree classes. Thereafter, he was granted Senior scale grade w.e.f. 1.10.2008

onwards vide Annexure P-5. The respondent-University-Deenbandhu Chhotu Ram University of Science and Technology Murthal advertised post of Lecturer in Mechanical Engineering vide advertisement No.3/2009 (Annexure P-6). The petitioner was given 'No Objection Certificate' dated 28.12.2009 (Annexure P-7) by the Institute where he was working since 1.10.2002. The petitioner joined on 5.2.2010 and his pay was protected vide Salary Certificate dated 30.6.2010 (Annexure P-9) alongwith "No objection Certificate'. He had joined on 28.4.2010. In the present writ petition, the petitioner is seeking benefit of grant of Career Advancement Scheme as per notification dated 30.1.2004 (Annexure P-10) issued by the State of Haryana. As per the abovesaid instructions, the Lecturer is entitled to Sr.Scale after 6 years of service. The petitioner is seeking grant of this scale taking into account his service as a Lecturer in Mechanical Engineering w.e.f. 1.10.2002 after giving him notional benefit in the year 2008 he seeks benefit with effect from the date of his joining i.e. 28.4.2010.

Counsel for the petitioner has further referred to the case where similar benefit has been extended to one Sukhdeep Singh i.e. the benefit of counting of past service has been granted to him as per the office order dated 4.11.2008 (Annexure P-14) where name of Sukhdeep Singh is at Serial No.4. He was granted the benefit of 6 months and 8 months which he had served in TIT & S and M.M.College of Engineering, Mullana respectively.

After notice of motion, reply has been filed by the

respondent-University whereby respondent-University has not disputed the order dated 28.4.2008 (Annexure P-16) and the benefit granted to Sukhdeep Singh. However, an attempt has been made to deny the benefit to the petitioner on the ground that after notification 30.1.2004 (Annexure P-10), the State of Haryana has issued separate instructions dated 20.8.2009, 27.8.2009 and 2.9.2009 (Annexure P-15).

Counsel for the respondent has referred to the instructions dated 29.3.2013 (Annexure R-8) wherein sub clause (g) it has been specifically provided that no distinction should be made with reference to the nature of Management of the Institution where the previous service was rendered (private/local body/Government), was considered for counting past services. He further states that only the services of private Institutes can be protected which are funded by the State Government.

Counsel for the petitioner has referred to the judgment passed by this Court in **CWP No.18972 of 2013 titled as Amita Rani Versus Deen Bandhu Chhotu Ram University of Science and Technology and others decided on 13.6.2016** whereby the instructions dated 29.3.2013 Annexure R-8 were examined and considered and it was held that no distinction can be made with regard to past service even if the petitioner was appointed under the Self Financed Scheme by the Kurukshetra University, Kurukshetra. The writ petition was allowed and the benefit of pay protection was given to the petitioner.

Counsel for the respondent states that this judgment has been implemented by the University. He has further informed that a private person has filed an LPA against the judgment, which is pending. However, he does not dispute that the judgment has been implemented by the University.

In the present case, perusal of the instructions dated 29.3.2013 (Annexure R-8) shows that with respect to counting of past service benefit, clarification was sought from the Government that whether previous regular service at national or International as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other scientific/professional organisations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR, ICMR, DBT etc. funded by State/Central Government should be counted for direct recruitment and promotion under CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature. It has been clarified that no distinction should be made whether previous service was rendered in a private local body or Government. Hence, in the present case the judgment of **Amita Rani's case (supra)** is directly applicable to the case of the petitioner where the University has protected the pay of the petitioner and the pay protection has also been granted in view of the instructions dated 29.3.2013 (Annexure R-8), the benefit of past service cannot be denied for the purpose of Career Advancement Scheme as per the notification dated 30.1.2004 (Annexure P-10).

The writ petition is allowed. The respondent-University is directed to grant the benefit to the petitioner and inform this Court within four months.

29.4.2019
Meenu

(RITU BAHRI)
JUDGE

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