

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

-:-

**CWP-11559-2020 (O&M)
Date of Decision: 27.04.2021**

Savita Dhull

.....Petitioner

VERSUS

State of Haryana & Others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Tribhuvan Dahiya, Advocate for the petitioner

Mr. Gaurav Gulzar Singh Chauhan, DAG Haryana
for the respondents

ALKA SARIN, J.

Heard through video conferencing.

The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the letter dated 11.06.2020 (Annexure P-12) whereby the petitioner's claim to count her past service, rendered in a taken-over College, towards pension and retiral benefits has been declined.

The impugned letter (Annexure P-12) reads as under :

"I have been directed to inform you that as the proof of CPF deduction is not attached and S.U.S. National College, Matak Majri was not on grant-in-aid at the time of taken over. So the case is not covered under the Haryana Aided Affiliated College (Pension & Contributory Fund) Rules, 1999. So, claim for counting of past service to Smt. Savita Dhull, Associate Professor Psychology is rejected".

Learned counsel for the petitioner has contended that the consideration by the respondents of the petitioner's request for giving benefit of her past service in the taken-over College while fixing her pension is illegal. He submitted that since the S.U.S. National College, Matak Majri was a private un-aided college at the time of its taking over by the State Government, the recourse by the respondents to the Haryana Aided Affiliated College (Pension & Contributory Fund) Rules, 1999 to reject the petitioner's request was palpably erroneous in as much as the said College was not an aided College and the said Rules did not apply to the College. He further contended that the petitioner had along with her representation dated 26.08.2019 (Annexure P-7) attached a copy of the PF refund order (Annexure P-3) which proved that CPF deduction had been made and that is why it was refunded.

A perusal of the impugned letter (Annexure P-12) shows that the respondents have sought to apply the Haryana Aided Affiliated College (Pension & Contributory Fund) Rules, 1999 while considering the representation of the petitioner. Surprisingly, in the short reply filed on behalf of respondent Nos.1 and 2 it is stated that *"It is further relevant to mention here that college where the petitioner was working prior to taken over was un-aided (self-financed) and such colleges are not covered under the above scheme"*. Once the respondents are themselves aware that the S.U.S. National College, Matak Majri was a private un-aided college at the time of its taking over by the State Government, there was no occasion for them to examine the petitioner's representation under Rules applicable to aided colleges. The petitioner's representation (Annexure P-7) makes no mention of the Haryana Aided Affiliated College (Pension & Contributory

Fund) Rules, 1999 and she did not seek any relief under the said Rules. Further, the petitioner along with her representation (Annexure P-7) had attached a copy of the PF refund order (Annexure P-3). Thus, the impugned letter (Annexure P-12) has been issued without properly examining the facts and the relevant record.

In view of the discussion above, the impugned letter dated 11.06.2020 (Annexure P-12) is set aside. The respondent No.2 is directed to examine and decide the petitioner's representation (Annexure P-7) afresh under the relevant and applicable law/Rules and after also considering the relevant record pertaining to her employment with the S.U.S. National College, Matak Majri, Indri, Karnal. Needful be done within a period of three months from the date of receipt of a certified copy of this order.

Disposed off.

**(ALKA SARIN)
JUDGE**

27th April, 2021
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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO