

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

(230)

CWP-2466-2019

Date of Decision : December 13, 2022

Ravinder Kumar Mangal

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramesh Malik, Advocate, for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Mr. Anil Kumar Sharma, Advocate, for respondent No.4.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the service which the petitioner had rendered under the Department of Education Union Territory, Chandigarh from 01.01.2010 to 14.12.2013, be taken into account for the purpose of Pay Protection, grant of ACP benefits and retiral benefits, which benefit has been declined to the petitioner vide impugned order dated 17.09.2017 (Annexure P-5).

As per the averments made in the petition, the petitioner was selected in the Department of Education, U.T Chandigarh as a Science Master on 01.01.2010 and while working in the said Department, the petitioner applied in pursuance to the advertisement issued by the State of

Haryana by which the posts of PGT (Physics) were advertised. After applying through proper channel, the petitioner competed for the post of PGT Physics and was ultimately selected and appointed on 14.12.2013. Upon the said selection, the petitioner was relieved by the Chandigarh Administration so as to join the new assignment on which post, the petitioner joined on the same date on 14.12.2013 without there being any gap.

After joining the Education Department, Haryana, the petitioner claimed the benefit of the service rendered with the Department of Education, U.T Chandigarh as a Science Master, which benefit has been declined to the petitioner vide impugned order dated 17.09.2017, a copy of which has been appended with this petition as Annexure P-5. The said order is under challenge in the present petition.

The argument of the learned counsel for the petitioner is that once the petitioner is continuously working in the Department of Education though in U.T, Chandigarh from 01.01.2010 to 14.12.2013 and thereafter, in the Education Department of the Government of Haryana, the petitioner is entitled for pay protection as well as counting of the service with the U.T. Chandigarh for the purpose of grant of ACP scales and retiral benefits.

Learned counsel for the petitioner submits that declining of the benefit to the petitioner by the respondents is totally arbitrary and illegal, hence, the impugned order dated 17.09.2017 (Annexure P-5) is liable to be set aside.

Learned counsel for the petitioner is relying upon the the case of one Vimla Kumari, who was Lecturer in Chemistry with Government of Haryana and was granted the benefit of earlier service rendered in U.T.

Chandigarh.

Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that though the petitioner had worked with the Department of Education, U.T Chandigarh from 01.01.2010 to 14.12.2013 but the said service cannot be taken into account either for pay protection or for grant of ACP benefits as there does not exist any rule with the Government of Haryana for the grant of the said benefits.

As per the respondents, Vimla Kumari, who was working with U.T. Chandigarh initially, was working on a pensionable post and upon joining the Government of Haryana, which was also a pensionable post at the relevant time, the benefit of earlier service was granted towards the pensionary benefits under the old pension rules only and not for the purpose of pay protection or for the grant of ACP scale.

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

The grant of benefits are regulated by the rules governing the service. For every eventuality, the Rules exist in the service rules so as to extend a particular benefit to the employees concerned. In the present case, no rule has been cited before this Court according to which, the service rendered with U.T Chandigarh can be taken into account as a valid service for the grant of ACP scale or even for the grant of pay protection.

In the absence of any such rule cited, no benefit of the service rendered by the petitioner with the U.T. Chandigarh can be extended for the purpose of pay protection or for the grant of ACP scale.

Further, the grant of the said benefit if extended by this Court, will mean that the petitioner will get higher salary than even his seniors,

who competed along with the petitioner for the post of PGT Physics in the year 2013, which is impermissible.

Further, the claim of the petitioner that one Vimla Kumari Lecturer in Chemistry, was allowed the benefit of service rendered by her under the Kendriya Vidyalaya Sangthan New Delhi towards the pensionary benefits, the same has duly been explained by the respondents that the said Vimla Kumari was working on a pensionable job prior to joining the Government of Haryana and keeping in view the rules for the grant of pensionary benefits, the said service has been taken into account as a qualifying service.

As per the respondents, even Vimla Kumari was not given any benefit towards the pay protection or even the grant of ACP scale with regard to the service rendered by her in Kendriya Vidyalaya Sangthan New Delhi. That being so, the petitioner cannot claim parity with Vimla Kumari.

With respect to the prayer of the petitioner for counting the service rendered by the petitioner with U.T. Chandigarh for the purpose of pensionary benefits, the same is to be regulated by the Haryana Civil Services (Pension) Rules, 2016. According to Rule 15, which deals with the grant of benefit of past service towards the pension, the said benefit can only be given in case the employee was working on a post which was covered under the pension rules. In the present case, the petitioner was appointed in U.T. Chandigarh in the year 2010 when the said post was not a pensionable post, which is a conceded fact. That being so, no benefit of counting of past service for the grant of pension can be given to the petitioner upon appointment in the State of Haryana in the year 2013.

Keeping in view the above, no ground is made out for the grant of benefits as being claimed by the petitioner in the present petition.

No interference is called for by this Court with regard to the quashing of the impugned order dated 17.09.2017 (Annexure P-5).

Accordingly, the present writ petition is dismissed.

December 13, 2022

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes