

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

CWP No. 13057 of 2018
Date of decision: 23.09.2022

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Harbhajan Singh

....Petitioner(s)

Versus

The Vice Chancellor, Punjabi University, Patiala and another

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. H.S. Saini, Advocate,
for the petitioner.

Mr. Ashish Verma, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The petitioner, in the present writ petition filed under Articles 226 and 227 of the Constitution of India, seeks counting of his service rendered by him on *ad hoc* basis prior to his regular appointment on 31.08.2004 for the purposes of pension, which has been rejected vide the communication dated 08.11.2017 (Annexure P-11). Reliance has been placed upon the judgment of the Full Bench in ***Kesar Chand vs. State of Punjab, 1988 (2) PLR 223*** for claiming the said benefit apart from the fact that in similar circumstances, one Balbir Kaur was also granted the similar benefits in CWP No. 21533 of 2011 in *Balbir Kaur vs. Punjabi University, Patiala* by counting the service rendered by her on daily wages and *ad hoc* service.

We have perused the paper book and a perusal of the same would go on to show that the reasons for rejection vide the impugned order dated 08.11.2017 (Annexure P-11) were that the Punjab Civil Service Rules

regarding counting of *ad hoc* service do not provide for the same for

pensionary benefits and the recruitment should have been made through employment exchange through open advertisement. On account that his appointment on *ad hoc* Lecturer was not made through employment exchange or open advertisement, the relief has been declined for pensionary benefits by holding that *ad hoc* service is not to be counted for the said purpose.

It is to be noticed that initially, the petitioner was appointed as as Project Associate by the Registrar of the University at a consolidated salary of Rs.8,000/- per month. Thereafter on 12.12.2001 (Annexure P-2), he was appointed as an *ad hoc* Lecturer in the said centre in the pay scale of Rs.8,000-13,500/- and he continued there as such. Thereafter on 31.08.2004, he was granted a regular appointment letter and his appointment was to be on a probation for a period of 2 years. The period of probation was successfully completed by him on 31.01.2007 (Annexure P-4) and thereafter on 19.10.2009 (Annexure P-6), he was appointed on the post of a Project Director with the same centre namely Dr. Balbir Singh Sahit Centre, Dehradun. The pay scale as such was Rs.6,400-22,400/- and he was also to be on probation. The said post was converted to the post of a Director (Professor Scale) on 12.01.2012 (Annexure P-7) as per decision of the Syndicate and it is not disputed that he retired on 30.06.2013. He thereafter continued on the said post by virtue of an extension granted till 13.02.2018 vide order dated 25.07.2016 (Annexure P-8). He thus, claimed his total service of 13 years 2 months and 29 days which included a period of 1 year, 9 months and 10 days period on a consolidated salary and claimed pension which was denied by replying to the legal notice dated (Annexure P-11), which has been impugned.

The stand as such of the respondent-University is that the

appointment initially was non-regular and on *ad hoc* basis and it was done on the orders of the Vice Chancellor and as per the report submitted by the Committee, his case was not liable to be considered for retiral benefits. The report of the Committee had been annexed as Annexure R-1. The said report as such in principle is only on this ground that the appointment was not on regular basis and not on the basis of any rules or regulations.

Keeping in view the above, we are of the considered opinion that the said reasoning as such is not justified once the petitioner was appointed on regular basis on 31.08.2004 and his probation period had been cleared on 31.01.2007 (Annexure P-4). Thereafter, there is no break in service from 12.12.2001 when he was appointed on *ad hoc* basis and in pursuance of the advertisement, he applied for the post of Project Director and then was further also allowed to continue as a Director, from which he retired on 30.06.2013.

Thus, we are of the considered opinion that the judgment in *Balbir Kaur's case (supra)* would be fully applicable which has relied upon the Full Bench judgment in *Kesar Chand's case (supra)* that for the purposes of pension, the *ad hoc* period is also to be counted since it is a social welfare measure to meet the hardship in the old age. It is not disputed that the said judgment was not appealed against by the University and, therefore, also covers the case of the petitioner.

Thus, the writ petition is allowed and the impugned order dated 08.11.2017 (Annexure P-11) is set aside and a writ of mandamus is issued to the University to consider the *ad hoc* period of the petitioner from 12.12.2001 in which he was firstly appointed as *ad hoc* Lecturer till the date of his retirement on 30.06.2013 for the purposes of calculating his pensionary benefits and to pass speaking order on that basis. All retiral benefits

accordingly be disbursed to the petitioner within a period of 3 months from the date of receipt of certified copy of the order. The claim for interest, however, is not accepted since apparently, the petitioner chose not to agitate for his grievances from 2013 onwards till serving of the legal notice on 08.02.2018 and the writ petition was filed thereafter.

(G.S. SANDHAWALIA)
JUDGE

23.09.2022
shivani

(JAGMOHAN BANSAL)
JUDGE

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