IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(214) **CWP-19690-2015**
Date of Decision : May 20, 2022

Hari Ram Dagar **.. Petitioner**

Versus

State of Haryana and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Atul Yadav, Advocate, for the petitioner.

Mr. Narender Singh Behgal, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance which is being raised by the petitioner is that the service which the petitioner had rendered from 22.07.1982 till 14.10.1988 with respondent No.4 be taken into account as a qualifying service for computing the pensionary benefits.

As per the averments made in the petition, the petitioner was appointed as a Technical Assistant with respondent No. 4 on 22.07.1982 where he worked upto 14.10.1988 after which date, the petitioner was selected as a Lecturer (Mathematics) with the Government of Haryana and served there till he attained the age of superannuation on 31.01.2012. After the petitioner retired, he made a claim that his service rendered with respondent No.4-Institute, which is an autonomous body of the Government of India, be taken into account as a qualifying service for computing the pensionary benefits. The non-grant of the said benefit has led to the filing of the present petition.

After notice of motion, the respondent- State has filed the reply wherein, it has been mentioned that the grant of benefit of service rendered in an autonomous body of the Government of India is regulated keeping in view the instructions dated 22.08.1988 (Annexure R-1) according to which the said period can only be counted in case, the previous employer admits its liability towards pension liabilities i.e. pro-rata pension/service gratuity/ terminal gratuity and death cum retirement gratuity and the pay the same to the new employer and in the present case, keeping in view the letter dated 18.05.2015, the respondent No.4 has refused the said liability and therefore, the petitioner cannot be granted the said benefit.

Reply on behalf of respondent No. 4 has also been filed wherein, it has been mentioned that the petitioner was asked to contribute to the pension fund regularly every month but he failed to do so while he was in service with respondent No.4, hence, as the petitioner failed to contribute to the pensionary contribution, the liability to pay retiral benefits of the petitioner to respondent No.2, for the period which the petitioner had worked with respondent No.4, does not arise.

There is no replication to the said written statements.

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

In the present case, the grievance which is being raised by the petitioner that his previous service rendered with respondent no. 4 from 22.07.1982 till 14.10.1988 be treated as a qualifying service for computing the pensionary benefits, cannot be accepted for the reason that while in service of respondent No.4, the petitioner never contributed towards the pensionary funds, which is clear from the written statement of respondent No.4. That being so, the petitioner never opted nor contributed any fund so as to claim the pensionary benefits while working with respondent No.4.

Further, while working with respondent No.2, the petitioner never raised a grievance with regard to the grant of benefits in respect of the previous service upto the date he retired. It was only after the retirement that the petitioner raised the said grievance and upon being asked by respondent No.2, respondent No.4 refused liability keeping in view the fact that the petitioner never contributed to the pensionary funds while working with respondent No.4. That being so, keeping in view the case of the petitioner himself, he is estopped from claiming any benefit of the service with respondent No.4 to be treated as a qualifying service while computing the pensionary benefits after he retired from service of respondent No.2. Claim of the petitioner is also not covered for the grant of the said benefit as per instructions dated 22.08.1988 (Annexure R-1), hence, the same cannot be accepted.

Keeping in view the above, no interference is called for in the present case.

Dismissed.

May 20, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No