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

CWP-15010-2018
Date of decision: 09.02.2022

Brijinder Singh Sidhu ....Petitioner

versus

State of Punjab and another ....Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Pawan Kumar Mutneja, Senior Advocate with
Mr. Viranjeet Singh Mahal, Advocate
for the petitioner.

Ms. Simran Grewal, AAG, Punjab
for the official respondents-State.

FATEH DEEP SINGH, J.

The petitioner-Brijinder Singh Sidhu ex-Principal of Government College, Nabha has come up in this writ petition under Article 226 of the Constitution of India for issuance of writ in the nature of *certiorari* seeking quashment of order dated 30.12.2010 (Annexure P-7), order dated 17.08.2009 (Annexure P-3) and order dated 22.02.2010 (Annexure P-4) on the grounds that the petitioner was entitled to pay grade and the orders were violative of Articles 14 and 16 of the Constitution of India as well as formulations of 6th Pay Commission and 5th Pay Commission.

Undisputedly, the petitioner has retired from Higher Education Department of Punjab Government in the year 1992 in the pay scale of Rs.4500-7300 claiming that the State of Punjab revised pay scale/pensions of his employees with effect from 01.01.2006 on the recommendation of the 5th Pay Commission and in spite of the Government of India having accepted the recommendation of the University Grants Commission (UGC) to revise the pay scales of the Teachers and equivalent cadres of Central Universities whose expenditures is being met by the UGC the petitioner was entitled to fixation of his pay in the revised pay structure and consequently, affecting his pay band which needs to be enhanced.

The stand of the respondents in their reply that pension of the petitioner was fixed in the revised pay scale of 01.01.2006 at the minimum of pay band. It is, thereafter, the Government of Punjab reconsidering the decision and has revised the pension of all such retirees similar to the petitioner vide order dated 30.10.2019 and the pension of the petitioner has been revised to

Rs.25,059/- (Rupees Twenty Five Thousand Fifty Nine Only) from earlier pension of Rs.23,341/- (Rupees Twenty Three Thousand Three Hundred Forty One Only) and the arrears too, stands released. It is further claimed that the Rules provide 33 years to be the qualifying service for calculation of pension and the claim of the petitioner that instead of 32.5 years be considered was not maintainable in terms of Rule 6.1 of Punjab Civil Services Rules, Vol. II, Part II and, therefore, terming the claim to be fully wrong and untenable and sought dismissal of the present petition.

Upon hearing learned counsel for the parties, Rule 6.1 of the Punjab Civil Services Rules, Vol. II, Part II pertaining to calculation of length of service for the purposes of pension is reproduced as below to lay emphasis:-

> *"6.1- The amount of pension that may be granted as set forth in the succeeding sections of this chapter. Fraction of a year equal to three months and above shall be treated as a completed six monthly period for the purpose of calculation of any pension admissible to such an officer."*

which has been placed on the record as R-2. It is by no means displaced that the petitioner at the time of his retirement had put in 32 years and 05 months of service and, therefore, as per Rule 6.1

above for the calculation of pension 32 full years and 05 months as half year has been taken into consideration and which order is placed as R-1 when the Rule itself makes it abundantly clear that fraction of a year equal to 03 months and above shall be treated as completed 06 months' period for calculation of pension and, therefore, these 05 months has to be treated as 06 months and, therefore, pension for 32 years and 05 months as qualifying service has to be considered for fixation of pension. Annexure P-3 pertains to the decision of the Government regarding recommendation and implementation of the 5th Punjab Pay Commission pertaining to revision of pension of pre 01.01.2006 pensioners and which is not in any manner put to question and so Annexure P-4 which pertains to the Finance Pension Policy lays down that the decision taken therein as to the implementation of recommendation of 5th Pay Commission will become effective from 01.01.2006. Furthermore, the main grouse of the petitioner which has led to the invocation of the present petition, Annexure P-7 pertains to the Government notification issued by the Department of Finance pertaining to pension policy under which by way of Annexure B revised pension have been provided which is based on pay band and grade pay of the Teachers and equivalent cadres and under which the approved revised pay band of Professor, Lecturer (Selection Grade)/Reader with 03 or more years of service, Lecturer (Selection Grade)/Reader, Lecturer (Senior Scale) and Lecturer have been provided eliciting the minimum pension of this entitlement and this minimum pension is pertaining to maximum qualifying service of 33 years to which the petitioner cannot claim in view of the above detailed particulars and which Annexure B provides that where qualifying service is less than 33 years, there would be reduction of the pension on *pro rata* basis.

To the specific query of the Court Mr. Pawan Kumar Mutneja, Senior Advocate for the petitioner could not convince this Court how there has been illegality and perversity in these decisions of the respondents so sought to be challenged.

Nothing appears to be illegal and unconstitutional and thus, the petition being hopelessly without merits, stands dismissed.

(FATEH DEEP SINGH)
JUDGE

09.02.2022
Neha

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