

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.224

CWP No.345 of 2017

Date of Decision: 30.08.2022

Inder Kumar

.....Petitioner

Versus

Pandit B.D.S. PGIMS, Rohtak

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.P.Chahar, Advocate
for the petitioner.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for the respondent.

HARSIMRAN SINGH SETHI, J.(ORAL)

Learned counsel for the petitioner argues that in the present case, the petitioner was initially appointed as a Mess Clerk on a consolidated salary in the Boys Hostel, Medical College, Rohtak on 13.05.1982. The said vacancy was advertised by the Employment Exchange as Counter Supervisor-cum-Mess Clerk vide order dated 21.08.1987, against which advertisement, the petitioner applied for and after being found eligible by the Selection Committee, the petitioner was selected and was appointed on the said post on adhoc basis on a consolidated salary of Rs.500/- as per D.C. rates applicable at the said time vide order dated 11.09.1987. The petitioner continued working as such till his services were regularized on 29.01.1992. Petitioner attained the age of superannuation on 31.03.2016, after which he was given extension for a period of two years and ultimately, the petitioner retired from service on 31.03.2018.

The respondent has not granted the benefit of service rendered by the petitioner starting from 13.05.1982 till 28.01.1992 as a qualifying service for computing the pensionary benefits, which claim is being raised by the petitioner in the present petition, after the same was declined by the respondent vide impugned order dated 21.10.2016 (Annexure P-13), which is under challenge in the present writ petition.

After notice of motion, the respondent has filed reply wherein it has been mentioned that the above mentioned facts have not been disputed but it is submitted by the respondent that while regularizing the services of the petitioner, it was mentioned that no benefit of the previous service would be given to him and therefore, no benefit can be claimed by the petitioner in the present petition, starting from the year 1982 onwards, even for computing the pensionary benefits.

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

As per the respondent, when the petitioner was appointed in the year 1982, he was being paid the salary out of the students' funds. The University was not paying the salary of the petitioner till the vacancy was advertised in the year 1987, after which the petitioner was selected by the duly constituted Selection Committee and the petitioner was appointed. The said appointment has been further regularized by the respondent in the year 1992. That being so, keeping in view the settled principles of law as laid down by Hon'ble Full Bench of this Court in the case of **Kesar Chand versus State of Punjab, AIR 1988 Punjab and Haryana 265: 1988 (5) SLR 27 (P&H)**, the daily wage service rendered by an employee prior to the regularization is to be treated as a qualifying service for computing the

pensionary benefits.

Furthermore, nothing has been brought to the notice of this Court that any rule prohibits the counting of the said service which the petitioner has rendered from 1987 onwards till 1992 to be excluded as a qualifying service. In the absence of any rule, the total length of service is to be taken into consideration for computing the pensionary benefits, hence, the claim of the petitioner for including the service rendered by him from 11.09.1987 till 29.01.1992 as a qualifying service is covered keeping in view the settled principles of law as noticed hereinbefore coupled with the facts of the present case. Respondent is liable to be directed to recompute the pensionary benefits of the petitioner after giving him the benefits of services rendered by him from 11.09.1987 till 29.01.1992 as a qualifying service.

As the petitioner had approached this Court even prior to the date of retirement, the petitioner will also be entitled for the grant of arrears, which the petitioner becomes entitled for under the order.

Let the respondent compute the arrears for which the petitioner is entitled for under this order within a period of two months from the receipt of a copy of this order and the same be released to the petitioner within a period of one month thereafter.

No other argument was raised.

Petition stands allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

30.08.2022

Maninder

Whether Speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No