

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

LPA No. 542 of 2017

Date of Decision: 09.11.2022

Parmal Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. R.P. Daaria, Advocate, for
Mr. G.S. Gandhi, Advocate,
for the appellant.

Ms. Palika Monga, D.A.G., Haryana.

G.S.SANDHAWALIA, J. (ORAL)

The present Letter Patent Appeal arises from the order of the learned Single Judge passed in CWP No. 18352 of 2013, titled as **Parmal Singh** vs. **State of Haryana and others**, decided on 23.02.2017.

The claim of the appellant was to count the service from 28.12.1983 to 19.01.1989 for the purpose of extending the benefit of retiral benefits alongwith interest @ 24% per annum.

The learned Single Judge found that the services of the appellant has been terminated on 28.01.1986 when he has been appointed as a Language Teacher. Thereafter, he had been appointed as a Social Study Master from 1986 to 1989 and thereafter, he had resigned on 19.01.1989. Then he was appointed as a Hindi Lecturer on 20.01.1989 on the basis of which he has sought the said benefit.

The State in its reply has specifically replied upon Rule 4.19 of the Punjab Civil Services Rules (Volume-II), which reads as under:-

“(a) Resignation from public service, dismissal or removal from it, either under proviso (c) to Article 311 (2) of the Constitution for over anti-national activities such as sabotage, espionage etc. or for misconduct, insolvency, inefficiency not due to age or failure to pass a prescribed examination, entails forfeiture of past service and no pension shall be granted in the aforementioned circumstance:

Provided that in cases of those Government employees whose removal or dismissal results from participation in other objectionable activities affecting or endangering the security of the State, such proportionate pension may be granted as may be recommended by the Committee of the Advisors constituted under the Haryana Civil Services (Safeguarding of National Security) Rules, 1971).

(b) Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not a resignation of public service.

In cases where an interruption in service is inevitable due to the two appointments being at different stations, such interruptions, not exceeding the joining time permissible under the rules on transfer, shall be covered by grant of leave of any kind due to the Government employee on the date of relief or by formal condonation under Rule 4.23 to the extent to which the period is not covered by leave due to the Government employee.

Note:- The previous services of a Government Employee, who is transferred to a temporary appointment is forfeited by his resigning the

temporary appointment and taking up another temporary appointment of his own accord.”

Apparently, the aforesaid Rule itself provides the fact that the service to be forfeited on account of resignation and pension is not to be granted.

In view of the above, we are of the considered opinion that the reasoning which has been arrived at by the learned Single Judge cannot be faulted. It is not the case of the appellant that he had applied through proper channel of the appointment and therefore the benefit was liable to be granted, under clause (b).

Moreover, it is the specific case as such of the State that he was appointed on *ad hoc* basis and his service has been terminated and he has been relieved from service initially on 14.05.1986 from the Department of Industrial Training Vocational Education, Haryana, as per the entry in the service book.

Thereafter, he was appointed as a Social Studies Master on *ad hoc* basis on 28.12.1986 and then was selected afresh on regular basis, and eventually retired as a Principal on 30.04.2011. Resignation has also been made from the earlier post, before joining on regular basis which is admitted in the replication filed by the appellant/writ petitioner.

In such circumstance, keeping in view the aforesaid Rule which have been relied upon by the learned State counsel, we are of the considered view that the reasoning adopted by the learned Single Judge does not suffer from any infirmity which would warrant any interference.

The appeal is consequently, dismissed.

(G.S. SANDHAWALIA)
JUDGE

November 09, 2022
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(HARPREET KAUR JEEWAN)
JUDGE