

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

(217)

CWP-1561-2014

Date of Decision : October 31, 2022

Sunita Sharma

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pankaj Bali, Advocate, for the petitioner.

Mr. Sandeep Singh Maan, Additional Advocate General,
Haryana.

Mr. Sudarshan Kumar, Advocate, for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the service which the petitioner had rendered with respondent No.3-Institute has not been taken into account as a qualifying service for computing the pensionary benefits after the petitioner retired from the service of the Department of Education, Haryana.

As per the facts mentioned, the petitioner was appointed as Lecturer with respondent No.3-College in the year 1991. The pay scale of the Lecturer after the revision, was Rs.8000-13,500/- in which pay scale, the petitioner was being paid the salary. In the year 2005, the petitioner applied for the post of Lecturer (College Cadre) which post was advertised

by the State of Haryana and ultimately, the petitioner was selected and appointed as English Lecturer on 29.09.2007 and petitioner after being relieved from respondent No.3-College, immediately joined the respondent-Department of Education in the Government of Haryana. The petitioner kept on working with the respondents and made a representation that her service rendered with respondent No.3-College be taken into account for fixing the salary of the petitioner along with other benefits. The said claim of the petitioner has been denied by the respondents vide order dated 06.11.2013, a copy of which has been appended as Annexure P-10. The reason for not accepting the plea of the petitioner is that the post of Lecturer with respondent No.3-College and that with the Government Organization does not carry the same pay scale w.e.f. 01.01.2006 and therefore, the benefit as being claimed by the petitioner is contrary to the instructions issued by the Government of Haryana dated 21.07.2011 and hence, cannot be extended.

The said rejection of the claim is under challenge in the present petition.

After notice of motion has been issued, the respondents have filed the reply in which the same stand has been taken by the respondents, as taken in the impugned order. In the reply, the respondents have mentioned that though, prior to 01.01.2006, the post of Lecturer in respondent No.3-College as well as with the Government institution, the same were in the same pay scale of Rs.8000-13,500/- but in the pay scale, which were revised w.e.f. 01.01.2006, the pay scale of the post of Lecturer with respondent No.3-College is Rs.9300-34,800+5400 grade pay whereas in the Government institution, the post of Lecturer carries a pay scale of

Rs.15,600-39,100/- with grade pay of Rs.6000/-. Hence, as the post of Lecture with respondent No.3-College and the Government institution where the petitioner joined on direct recruitment is not the same, no benefit of the earlier service can be given.

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

In the present petition, it is a conceded position that prior to 01.01.2006, the pay scale of the post of Lecturer with respondent No.3-College as well as with that of Government institution was the same i.e. Rs.8000-13,500/-. The petitioner was recruited with the Government institution on 29.09.2007. It is a matter of fact that on the said date also, the pay scale for the post of Lecturer in the both the institutions was Rs.8000-13,500/-. It is only after the petitioner joined, keeping in view the recommendation of the pay commission, which were accepted by the Government in the year 2009, the pay scale were revised with retrospective effect from 01.01.2006. That being so, in the case of the petitioner, the instructions dated 21.07.2011 cannot be put in operation.

Once, as a matter of fact when actually the petitioner joined in the year 2007, the post of Lecturer in respondent No.3-College as well as the Government institution where the petitioner was directly recruited, carried the same pay scale. The position qua the pay scale is to be seen at the relevant time i.e. At the time of joining the Government institution in 2007. The subsequent event cannot be used to deny the claim of the petitioner as the petitioner had already got a right for the grant of benefit in the year 2007 at which time, the pay scale of both the posts were identical.

The subsequent grant of higher pay scale to the post of Lecturer in the

Government institution in the year 2009, with retrospective effect, cannot take away the right of the petitioner to claim the benefit especially when at the time of joining the post of Lecturer in Government institution, the pay scale of both the post was identical. Therefore, the instructions dated 21.07.2011 cannot be applied upon the petitioner keeping in view that the vested right of the petitioner to claim the same on the date of joining of a new post in the Government Organization in September, 2007 stood crystallized immediately and could not be taken away by the revision of pay scale effected actually in the year 2009 but w.e.f. 01.01.2006.

Keeping in view the above, the petitioner is held entitled for the benefit as being claimed in the present petition. The respondents are directed to grant the petitioner the benefit of service rendered in respondent No.3-College after she had joined the post of Lecturer in respondent No.4-institution in September 2007 with respect to fixing her pay along with all consequential benefits. However, arrears if any, for which the petitioner becomes entitled for, will be restrained to 3 years and 2 months before the filing of the present petition, which was filed on 14.01.2014.

No other claim was raised.

The present writ petition is allowed in above terms.

October 31, 2022

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No