

**In the High Court of Punjab and Haryana at Chandigarh**

**104**

**CWP-1084-2019 (O & M)**

**Date of Decision: May 11, 2022**

**ANITA CHAUDHARY**

**.....PETITIONER**

**VERSUS**

**KURKSHETRA UNIVERSITY AND ANR**

**....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr.S.P. Laler, Advocate and  
Mr. Shubham Saroha, Advocate for the petitioner.

Mr. Prateek Mahajan, Advocate and  
Mr. Ashish Gupta, Advocate for respondent No.1.

Mr. Anant Kataria, DAG, Haryana.

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**ANUPINDER SINGH GREWAL, J (ORAL)**

The petitioner has challenged the order dated 04.01.2017 whereby her claim for counting past service for service benefit has been declined.

Learned counsel for the petitioner submits that the petitioner was appointed as Hostel Coordinator on 21.07.1997 and her services were terminated illegally in the year 2000. This order was challenged by her by preferring a CWP-16709-2000. This petition (CWP-16709-2000) was disposed of as infructuous after the State counsel had submitted that the Government of Haryana had accorded approval to Resolution No.40 dated 08.08.2009 vide which 02 posts of Hostel Coordinator were re-established. He also contends that the petitioner is not seeking benefit of the entire period prior to her re-appointment but for the period of over 02 years she had actually worked on the post prior to her termination in the year 2000..

Learned counsel for the respondent No.1, however, submits that the petitioner had been re-appointed in pursuance to the resolution issued in the year 2009 and it was specified in the order that it would be considered as a fresh appointment on the condition that she would not claim any benefit for the period the petitioner was not in service. He also submits that the petitioner had herself given an undertaking that she will not claim any benefit for the previous service. The services of the petitioner had earlier been terminated because the post was abolished as there was no requirement of work. He also submits that a similar petition bearing CWP-19088-2003 has been dismissed by the Coordinate Bench on 28.02.2020.

Heard.

The petitioner is stated to have worked for about 02 years when her post had been abolished. The petitioner was appointed again on 01.09.2010. It was specified in the order that it is a fresh appointment and the petitioner would not claim any benefit for the period, she had worked earlier. The petitioner had also submitted an undertaking to this effect. The respondents have also relied upon Rule 4.23 of the CSR Volume II, Part I, which reads as under:-

*"4.23. Interruption in service (either between two spells of permanent, or temporary service or between a spell of temporary service and permanent service or vice versa) in the case of an officer retiring on or after the 5th January, 1961, may be condoned, subject to the following conditions, namely:-*

- (1) The interruption should have been caused by reasons beyond the control of Government employee concerned.*
- (2) Service preceding the interruption should not be less than five years 'duration'. In cases where there are two or*

*more interruption, the total service, pensionary benefits in respect of which shall be lost if the interruption are not condoned should not be less than five years.*

*(3) The interruption should not be of more than one years duration. In cases where there are two or more interruption the total period of all interruptions to be condoned should not exceed one year."*

It is manifest from a bare reading of Rule 4.23 that in the event of the interruption in service being due to reasons beyond the control of the employee, the service preceding the break in service should be of at least 05 years and the interruption should not be more than a year in duration for grant of the benefit of previous service. In the case of the petitioner, she had only served for two years prior to the interruption and the break in service was of a period of 10 years. Therefore, she would not be entitled to the benefit of her previous service. A Coordinate Bench of this Court had also dealt with a similar issue in CWP-19088-2003 titled as **Parmod Kumar versus State of Haryana and another**, decided on 28.02.2020. The petitioner therein had worked for about 2 ½ years prior to the break in service and the break was for a period of over 05 years. It was held that petitioner therein was not been entitled to the benefit of past service.

Consequently, I do not find any merit in the instant petition and the same is dismissed.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**May 11, 2022**  
**A.Kaundal**

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|----------------------------|---|--------|
| Whether speaking/ reasoned | : | Yes/No |
| Whether Reportable         | : | Yes/No |