IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11260-2015
Date of decision : 16.01.2023

Achhru Singh and another ...... Petitioners

versus

State of Punjab and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sameer Sachdeva, Advocate
for the petitioners.

Mr. Inderpreet Singh Kang, AAG, Punjab.

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PANKAJ JAIN, J. (Oral)

The petition claims issuance of a writ in the nature of certiorari seeking quashing of the order dated 08.01.2013 (Annexure P-10), whereby the petitioners have been declined benefit of full service for the grant of gratuity.

2. Petitioner No.1 was appointed as Lecturer with the respondent-college on 30.07.1970. Petitioner No.2 was appointed as Librarian. Petitioner No.1 retired on 31.05.2006 on attaining the age of superannuation. Petitioner No.2 retired on 31.10.2009.

3. The college in question was taken over by the Government on 18.03.1994. The dispute relates to the period of service of the petitioners prior to taking over of the college on 18.03.1994 w.r.t. grant of gratuity.

4. Counsel for the parties are *ad idem* that the issue in question would be squarely covered by law laid down by Apex Court in case of ***'State of Punjab vs. Dev Dutt Kaushal', 1996 AIR (Supreme Court) 85*** and the petitioners would be entitled for gratuity only. Reference can be made to para 12, wherein Apex Court held as under:-

> "Another case relied upon by the learned counsel for the respondents before us is the decision of this Court in ***Chander Sain v. State of Haryana & Ors*. (1994 (1) S.C.C.750 : 1994(2) SCT 102(SC)**. Having regard to Para 10 of the conditions subject to which the private institution was taken over and particularly in the light of Para 3 of another memo dated March 28, 1979, this Court held that the government was bound to take into account the service rendered by the teachers under the private management for the purpose of calculating the gratuity payable. According to the orders in force prior to the taking over of the said institution, the teachers in private colleges were entitled to same gratuity as was payable to similar teachers in government service. Actually, the government was contributing seventy five percent of the total deficit of the private colleges relating to salary, gratuity, etc. for the posts approved by the government. The stand of the state of Haryana in that case was that teachers who had retired before the take over alone were entitled to gratuity calculated on the basis of the service rendered by them under the private management and not those who are absorbed in government service and retired thereafter. Such a plea was held to be unacceptable. Since the said decision turned on the particular facts and the language of the circulars concerned in that case, it is not necessary to set out the facts of the said decision."

5. Resultantly, the present writ petition is disposed off with a direction to the respondents to pay the gratuity amount to the petitioners by considering their whole service with the college alongwith interest @ 8% per annum which will be calculated for the period commencing from 03 months after the date of retirement of each of the petitioner till the date of actual realization.

6. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

16.01.2023
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No