

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CWP-21028 of 2016

Date of Decision:09.01.2023

Dr. Sheela Devi

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gagneshwar Walia, Advocate,
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present writ petition has been filed under Article 226 of the Constitution of India with a prayer for issuance of a writ in the nature of *mandamus* directing the respondents to release the retiral benefits of the petitioner by counting the service rendered by the petitioner as *ad hoc* employee.

Learned counsel for the petitioner has submitted that the petitioner joined as a Medical Officer in Punjab Civil Medical Services (PCMS-I) on *ad hoc* basis on 08.04.1987. He was appointed after adopting due procedure and after proper advertisement against the existing vacancy and he joined as a Medical Officer at Primary Health Centre, Sidhwan Bet, Tehsil Jagraon. Thereafter, the services of the petitioner alongwith other similarly situated doctors who were regularised by the State Government with effect from

26.06.1992 vide Annexure P-1 and thereafter the date of regularization was change with effect from 08.04.1991 instead of 26.06.1992 vide Annexure P-2.

Learned counsel for the petitioner has submitted that there are two grievances of the petitioner in the present case.

Firstly, when the services of the petitioner was regularised by the department itself, then for the purpose of fixation of pension and grant of arrears, the service rendered by the petitioner during *ad hoc* period was required to have been included but in the present case the same has not been done and therefore it is contrary to the law laid down by this Court in Full Bench judgment of this Court in **Kesar Chand versus State of Punjab and others** 1988 (5) SLR 27 as well as Division Bench judgment of this Court in **Raj Kumar Sharma versus State of Haryana and others** 2006(3) SLR 829.

It is further submitted that the case of the present petitioner so far as the first issue is concerned, is clearly covered by the aforesaid judgment and there is no justification for the State to have not granted the aforesaid benefit and she is entitled for the refixation of pay alongwith the arrears alongwith the interest.

Secondly, the petitioner was a doctor and was granted some increments at the time when she was on *ad hoc* service but at the time when her pension was fixed the aforesaid increments which she had earned at the time when she was on *ad hoc* service were not counted. He submitted that the similarly situated doctors of similar batches were granted benefit by this Court vide Annexure P-5 and the case of the present petitioner is also squarely covered by the aforesaid Annexure P-5 and the petitioner is at parity with the petitioners of that case.

Ms. Akshita Chauhan, learned DAG, Punjab has submitted that so far as the first prayer of the petitioner for counting *ad hoc* service rendered as an *ad hoc* employee is concerned, the petitioner was in fact entitled for the same in view of the law laid down by this Court in the aforesaid judgments in ***Kesar Chand*** and ***Raj Kumar Sharma***'s cases (both supra).

So far as the second prayer is concerned, the department of personnel has issued instructions that such increments cannot be counted for the purpose of pensionary benefits.

I have heard the learned counsel for the parties.

It is a case where the petitioner was earlier appointed as an *ad hoc* employee and thereafter her services were regularised by way of an order passed by the State itself alongwith the other doctors.

The law with regard to counting of *ad hoc* service for the purpose of pensionary benefits is no longer *res integra*.

The learned State counsel has also not opposed the aforesaid prayer of the petitioner for counting of the *ad hoc* service for the purpose of pensionary benefits. Therefore, the first prayer made by the petitioner is justified. So far as the second prayer of the petitioner is concerned, learned State counsel has stated that some administrative instructions have been issued for not counting the increments earned by the employee during the *ad hoc* service.

In view of the above, the present petition is partly allowed and the State is directed to re-fix the pension of the petitioner after counting the *ad hoc* service rendered by her for the purpose of pensionary benefits. On re-fixation of the same, her arrears of pay shall be calculated and shall be paid to her

immediately thereafter. The said exercise shall be done positively within a period of two months from today and the arrears shall be paid within next 30 days alongwith interest at the rate of 6%.

So far as the second prayer of the petitioner is concerned, respondent No.1 is directed to look into the issue as to whether the case of the petitioner is at parity with the petitioners who had filed CWP-18475 of 1995 and which has been decided vide Annexure P-5. In case the petitioner is found to be at parity with the petitioners of that case vide Annexure P-5 then further course of action shall be adopted for the payment of the amount in that regard. A speaking order shall be passed by respondent No.1 in this regard within a period of three months from today.

Consequently, the present present petition is partly allowed.

(JASGURPREET SINGH PURI)
JUDGE

January 09, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No