

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

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**CWP-21971-2017 (O&M)
Date of decision: 27.02.2023**

Sudhir Kumar

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sajjan Singh, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

Mr. R.K. Chaudhary, Advocate for respondent No.3.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for issuance of a writ in the nature of certiorari quashing the order/letter dated 25.11.2016 (Annexure P-9) whereby the claim of the petitioner for counting his service with respondent-State from 04.04.2003 to 12.11.2009 for pensionary benefits was rejected and directing the respondents to discharge their respective liability, including transfer of prorata pension and prorata gratuity etc. for counting the past service of the petitioner.

Learned counsel for the petitioner submits that the petitioner was appointed as Lecturer (now called as Assistant Professor) in Sanskrit in Haryana Education Services-II, Group-B on 31.03.2003; that the petitioner had applied for the post of the Assistant Professor in Sanskrit in Gurukul

Kangri Vishwavidyalaya (University), Haridwar through proper channel; that upon his appointment on the said post, he was relieved on 12.11.2009 (afternoon) by the respondent-State from his earlier post and he joined respondent No.3 on 13.11.2009 (forenoon) and worked there upto 20.07.2012 (forenoon). It is further submitted that thereafter, the petitioner had applied for the post of Assistant Professor in Special Centre for Sanskrit Studies in Jawahar Lal Nehru University (JNU), New Delhi through proper channel and after appointment, joined there as such on 20.07.2012. Thereafter, he was appointed as Associate Professor and then Professor in the JNU and since 12.08.2016 he has been working as a Professor there.

After arguing for some time, learned counsel for the petitioner submits that the issue involved in the present writ petition is regarding the transfer of pro-rata pension and gratuity, in lieu of the services rendered by the petitioner, so that the same could be counted towards pensionary benefits of the petitioner. A letter dated 12.01.2016 with a request to arrange to transfer the amount of prorata pension and prorata gratuity was sent by respondent No.3-Registrar, Gurukula Kangri Vishwavidyalaya, Haridwar, to respondent No.2-Director Higher Education, Haryana, in respect of qualifying service of the petitioner by demand draft in favour of the Registrar, Gurukula Kangri Vishwavidyalaya, Haridwar. In response thereof, respondent No.2 vide communication dated 25.11.2016 (Anneuxre P-9) informed that as per the provisions of instructions dated 07.01.2002, the benefits of past services rendered by the petitioner from 04.04.2003 to 12.11.2009 with the department cannot be granted for pensionary benefits. He points out that the case of the petitioner be considered in the light of communication dated 22.08.1988

issued by the Financial Commissioner & Secretary to Govt., Haryana, Finance Department (Annexure P-10) and further draws the attentions of this Court towards the office memorandum dated 29.08.1984 (Annexure P-11 colly) Pension Unit, Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms, New Delhi and submits that the Central Government has also taken the decision on the issue on the same lines.

Learned State counsel raises no objection and submits that the case of the petitioner will be decided as per instruction dated 22.08.1988 issued by the Financial Commissioner & Secretary to Govt., Haryana, Finance Department (Annexure P-10).

I have heard the learned counsel for the parties and have also gone through the case file.

Admittedly vide letter dated 12.01.2016 issued by respondent No.3- Gurukul Kangri Vishwavidyalaya, Haridwar, respondent No.2-Director Higher Education Haryana was asked to arrange to transfer the amount of prorata pension and prorata gratuity in respect of qualifying service of the petitioner by demand draft in favour of the Registrar, Gurukula Kangri Vishwavidyalaya, Haridwar. Respondent No.2 while deciding the claim of the petitioner relied upon the instructions dated 07.01.2002 (Annexure P-12) issued by the Finance Department, Government of Haryana, which are not applicable in the case of the petitioner. For counting of past service for the purpose of pension of the employees of the State Government and State Autonomous Bodies seeking absorption in the Central Government/Central Autonomous Bodies respectively and vice versa, instructions dated

22.08.1988 (Annexure P-10) is applicable.

In view of the above, order/letter dated 25.11.2016 (Annexure P-9) whereby the claim of the petitioner for counting his service with respondent-State from 04.04.2003 to 12.11.2009 for pensionary benefits were rejected, is set aside. Respondent No.2-Director Higher Education, Haryana, is directed to reconsider the case of the petitioner in the light of communication dated 22.08.1988 issued by the Financial Commissioner & Secretary to Govt., Haryana, Finance Department (Annexure P-10) and decide the same by passing a speaking order within a period of eight weeks from the date of receipt of copy of this order, in accordance with law.

Disposed of.

(HARNARESH SINGH GILL)
JUDGE

27.02.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No