

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

LPA-1016-2023 (O&M)
Date of decision: 29.11.2023

State of Haryana and ors.

...Appellants

Vs.

Sushila Goyat

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMAN CHAUDHARY**

**Present: Mr. Deepak Balyan, Addl.A.G, Haryana
for the appellants.**

Ritu Bahri, Acting Chief Justice

C.M. No. 2596-2023

For the reasons mentioned in the application, delay of 397 days
in filing of the appeal is condoned.

The application stands allowed.

L.P.A. No. 1016-2023

1. The instant appeal, under Clause X of the Letters Patent Appeal, is against the judgment dated 19.04.2022 passed by the learned Single Bench of this Court and order dated 28.03.2023 passed in review application bearing No. RA-CW-57-2023.

2. Learned counsel for the appellants submit that the late husband of the respondent was initially appointed as Lecturer in English in CRM Jat College, Hissar on 04.10.1983 on temporary basis. He worked as Lecturer till 08.07.1997 on a sanction post. He then applied for the post of HCS (Ex and Allied Services) and was selected for the post of District Food and

Supplies Controller and joined on 10.07.1997 and worked there till his

retirement on 31.07.2015. Learned State counsel has further argued that the learned Single Judge has not considered the instructions dated 31.05.2011 issued by Finance Department. The relevant para No. 5 (iii) of the instructions reads as under:-

5 (iii) That these benefits will be made effective in respect of the employees of the taken over college/schools from the date of pension scheme made applicable to Private Aided College/Schools ie with effect from 11.05.1998.

3. Learned State counsel has argued that once the husband of the respondent has left the school on 09.07.1997, therefore, he was not entitled for counting of past service for the purpose of pension, as he was not in service on 11.05.1998 with the department.

4. Heard.

5. Reference at this stage can be made to instructions issued by Finance Department (P-17 colly). These instructions were issued, keeping in view the number of decision given by this Court. The relevant para No. 5 of the instructions reads as under:-

i.) That this offer will be optional and applicable only to those employees who agree to refund the Management Share (before the date of taking over the Colleges/Schools by the State Government alongwith 10% annual compound interest). This amount can be deducted from their gratuity and they will give an undertaking to this effect that if the amount of Contributory Provident Fund is more than gratuity payable to them, then the pensioners will deposit the excess amount in Govt. Treasure.

ii) That if a retired Govt. employee opts for this benefit he shall deposit the share of contribution made by the Management alongwith 10% annual compounded interest (upto the date of depositing), in lump sum in Govt. Treasury.

iii) That these benefits will be made effective in respect of the employees of the taken over Colleges/Schools from the date of Pension Scheme made applicable in Private Aided

Colleges/Schools i.e. with effect from 11-05-1998.”

6. It is not in dispute that the late husband of the respondent was working on a sanction post w.e.f 04.10.1983 to 08.07.1997 in CRM Jat College, Hissar. As per the above instructions, the service rendered in Government Aided School is to be counted in case said school is taken over by the Government or employee concerned appointed in any other Government establishment.

7. Reference at this stage can further be made to a judgment of this Court in a case of ***Vijay Singh vs. State of Haryana and others, 2009 (4) S.C.T 32***, wherein similar issue has been dealt by this Court. In para 6, it has been held as under:-

6. I am conscious of the fact that in the cases of Harnandan Singh and Charan Singh (Supra), the school/Colleges where the services were rendered had been taken over subsequently by the Government and in this background, the Court had come to the conclusion that the service rendered in the aided school was required to be counted for the purpose of pension and retiral benefits. However, the ratio that can be culled out from these judgments and that of the Supreme Court is that if the service rendered in a privately managed school on an aided post is made pensionable, then that benefit can not be denied to him merely after appointment on a Government post on the ground that the service rendered was in a privately managed school. The plea is that if the service rendered by the petitioner in a Jat High School is made pensionable, then equity and fairness would demand that this should be counted towards his pension as well.

8. Even LPA No 162-2010 filed by the State against the above judgment, had been dismissed on 08.02.2010.

9. Thus, the finding recorded by the learned Single Judge, does

not warrant interference. No question of law warranting admission of the appeal would arise.

10. In view of the above, the appeal fails and the same is dismissed

11. Since main appeal itself has been dismissed, all civil misc applications stand disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

29.11.2023
G Arora

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No