

CWP- 23009-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP- 23009-2023

Date of Decision:11.10.2023

Usha Kiran

... Petitioner

V/s.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

DEEPAK MANCHANDA, J.(Oral)

Present writ petition has been filed in the nature of Mandamus under Article 226/227 of the Constitution of India by the petitioner for issuing directions to the respondents for counting service rendered by the petitioner from 27.11.1984 to 29.07.1993 as qualifying service for the purpose of pensionary benefits in the light of judgment dated 03.05.2017 passed by this Hon'ble Court in **CWP-18875-2013** titled **Manju Bala vs. State of Punjab and others** (P-6).

The brief facts of the case are that on 14.05.1984 Municipal Corporation Amritsar issued a public notice inviting applications for various posts including the post of Lady Health Visitor (LHV) under the Post

Partum Scheme (Family Planning) in the Nagar Nigam Zanana, Hospital Amritsar. The post of Lady Health Visitor was advertised in the pay scale of 510-940. On 16.11.1984, the petitioner applied for the post of LHV and was selected and issued appointment letter. In 1994 when the pensionary benefits were made admissible to the employees of Municipal Corporation in the year 1994, the petitioner was also asked to give option as per rules for deduction of provident fund which petitioner submitted through the Medical Superintendent, NNZ Hospital Amritsar. The service of the petitioner has been counted from 1984 onwards for granting proficiency step up and higher scale etc. on completion of 4, 9 and 14 years of service. The petitioner has also been allowed annual increments from 1984 onwards. On 07.06.1993 petitioner was made regular. On 29.07.1993 petitioner joined on the regular post and on 31.08.2017, petitioner retired from service. However, the petitioner has been paid pensionary benefits by counting her qualifying service from 30.07.1993 and her service from 27.11.1984 to 29.07.1993 has not been counted as qualifying service from the purpose of pensionary benefits . In this way 8 years 9 months and 3 days service of the petitioner has been treated as non-qualifying service. As a result of which, petitioner has been released pensionary benefits at a very lower rate and petitioner is suffering financial loss. On 03.05.2017, one Manju Bala who was also similarly placed like petitioner in as much as she was also initially appointed as Medical Officer against Post Partum Programme on 18.10.1984 and was subsequently regularized on 31.10.1998. However, said Manju Bala was also not given benefits of service from 19.10.1984 to

31.10.1998 as qualifying service for the purpose of pensionary benefits. Smt. Manju Bala approached this Hon'ble Court by way of CWP-18875 of 2013. The said writ petition was allowed by this Hon'ble High Court vide judgment dated 03.05.2017. Petitioner had been submitting repeated representations and reminders to the authorities for counting her service from 27.11.1984 to 29.07.1993 towards pensionary benefits as qualifying service. On 28.07.2013, the petitioner feeling aggrieved against the action of the department, in not counting her temporary service as qualifying service for the purpose of pensionary benefits served legal notice dated 28.07.2023 upon the respondent with the prayer to count her services 27.11.1984 to 29.07.1993 as qualifying service from pensionary benefits. On 22.08.2023 the respondent department sent reply to the notice that matter is under consideration.

Learned counsel for the petitioner at the outset confines himself to the limited prayer made in the writ petition for deciding the legal notice served by the petitioner dated 28.07.2023 (Annexure P-10) expeditiously by passing a speaking order within a time bound frame.

Notice of motion.

Mr. Arun Gupta, AAG, Punjab, who is present in Court accepts notice on behalf of respondent No. 1 and Mr. Sanjeev Soni, Advocate, who is present in Court accepts notice on behalf of respondent No.2.

Let sufficient number of copies of the petitioner be supplied by learned counsel for the petitioner during the course of the day.

Learned State counsel submits that the competent authority to

decide the said legal notice is respondent No.2.

Faced with this, learned counsel for respondent No. 2 submits that the legal notice dated 28.07.2023 (Annexure P-10) shall be decided by passing a speaking order.

I have heard learned counsel for the petitioner and have gone through the record of the case.

Without commenting on the merits and keeping in view the innocuous prayer made in the present petition, respondent No. 2 is directed to consider and decide the legal notice dated 28.07.2023 (Annexure P-10) in accordance with law, by passing a speaking order as expeditiously as possible preferably within a period of eight weeks from the date of receipt of certified copy of this order.

Petition stands disposed of.

(DEEPAK MANCHANDA)
JUDGE

11.10.2023
seema

Whether speaking/reasoned	Yes
Whether Reportable	Yes /No