

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CWP-26183-2023
Decided on : 22.11.2023

Pawan Kumar Kohli

. . . Petitioner

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Mahabir Singh Tanwar, Advocate
for the petitioner.

HARSIMRAN SINGH SETHI, J.(ORAL)

1. In the present petition, the grievance of the petitioner is that the break in service should be treated as a qualifying service for purpose of fixation of his pay keeping in view the appointment which has been given to the petitioner in pursuance to the direction given by this Court while passing order in CWP No. 11435 of 2018 decided on 02.09.2022(Annexure P-7).

2. Learned counsel submits that the qualifying service has been treated as 4 years 6 months which the petitioner has already performed but the period when the petitioner remained out of service is also to be included in the qualifying service and denial of the said benefit by the impugned order dated 13.10.2023 (Annexure P-12) is bad.

3. I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

4. In the impugned order, the respondents have relied upon the service by-laws according to which, the pay and the remuneration of the employees is to be fixed under the National Health Mission (NHM). As per the service by-laws No. 13.2, the period of break between the date of retrenchment and the date of adjustment shall not be counted in total length of service under NHM.

5. Learned counsel for the petitioner has conceded the factum that the said provision exists in the by-laws according to which, the pay of the petitioner is to be fixed and the qualifying service is to be determined and benefit of the period an employee remains out of service, same cannot be treated as qualifying service.

6. In the absence of any challenge to the by-laws according to which, the break period is not to be taken as a qualifying service under NHM and as the benefit of the break period which benefit the petitioner is seeking in the present petition is not at all admissible as per the by-laws.

7. Once, according to the by-laws, the petitioner is not entitled to get the benefit of break between the retrenchment and the adjustment as qualifying service and it is a conceded case that the petitioner has remained out of service before being adjusted afresh keeping in view the direction given by the coordinate Bench in CWP No. 11435 of 2018 decided on 02.09.2022, the claim of the petitioner

cannot be allowed in view of the by-laws governing the respondent-National Health Mission.

8. Keeping in view the above, no ground is made out for any interference by this Court with the impugned order.
9. Dismissed.

(HARSIMRAN SINGH SETHI)

JUDGE

22.11.2023

Mehak

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