

2024:PHHC:001791
CWP-768-2001 (O&M)
Date of Decision: 09.01.2024

...Petitioner

Vs.

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present None for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner has prayed to calculate his pension, gratuity and leave encashment on the basis of '66' half yearly formula of service rendered in the Education Department and Education Board. He also prayed for refund of the amount recovered from him relating to step up increment along with interest.
2. No one appears on behalf of the petitioner.
3. As matter pertains to the year 2001, therefore, same is taken up on merits.
4. The petitioner has challenged the amendment made on 15.04.1994, whereby the State Government while exercising the powers under Section 24 (2) of the Punjab School Education Board Act, 1969/1987, amended the Employees Pension Provident Fund and Gratuity Regulation, 1991. The said amendment was made effective from 01.04.1991. The said

amendment has been made applicable to count earlier period of service to the post for which post-graduate research or specialized qualification or experience in scientific, technological or professional field is essential but said concession is not permissible to employee whose actual qualifying service at the time of retirement is less than ten years in the Board.

5. The power to make an amendment is available under the Act and the respondents' Board can lay down a cut off period for allowing such benefit to only those who have ten years or more service. The claim of the petitioner is on the basis that he has chosen to count his service rendered in the old organization namely the Education Department as qualifying service for pension in the Education Board while the said period of service has been counted as qualifying service. The benefit of counting of earlier service would not be applicable as the service rendered in the Board has to be more than ten years as per the amendment. Accordingly, the amendment cannot be said to be in any manner arbitrary or *ultra-vires*. The amendment, therefore, does not warrant any interference and the prayer for quashment of the same is rejected.

6. As regards the recovery relating to the proficiency step up is concerned, this Court finds that the order for granting proficiency step up was withdrawn on 03.05.1994. The order of recall was not challenged by the petitioner. The claim of recovery on the basis of withdrawal of proficiency step up order is thus made out and the respondents have rightly recovered the said amount which need not to be refunded. The petitioner started receiving basic pension at the rate of Rs.2108/- plus other allowances. So far as the

period of service rendered with the State Government is concerned, the petitioner is getting separate pension from the State Government for the service rendered in the Education Department and is getting separate pension for the service rendered in the Education Board. No further relief is required to be granted in favour of the petitioner. The writ petition is misconceived and is accordingly dismissed.

7. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

09.01.2024
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No