



CM-14536-CWP-2024 in/& -1-
CWP-1978-2007 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102 CM-14536-CWP-2024 in/&
CWP-1978-2007 (O&M)
Date of Decision :18.09.2024

Palvinder Singh ..Petitioner

Versus

The Guru Nanak Dev University, Amritsar ...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. V.K. Sandhir, Advocate for the petitioner.

Mr. M.K. Dogra, Advocate for respondent-University.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-14536-CWP-2024

Present application has been filed for fixing some actual early date of hearing in the main writ petition.

Notice of the application to the counsel opposite.

Mr. M.K. Dogra, Advocate accepts notice on behalf of respondent-University and raises no objection for the grant of prayer as made in the present application.

Keeping in view the joint request of the parties, application is allowed. Main writ petition is taken up for hearing today itself.

CWP-1978-2007

In the present petition, prayer of the petitioner is that the



**CM-14536-CWP-2024 in/& -2-
CWP-1978-2007 (O&M)**

benefit of adhoc service being claimed by the petitioner to compute the qualifying service rendered by him before regularization of his services has been declined by the respondent-University vide impugned order dated 03.01.2007 (Annexure P/11) and the said order be set aside being totally arbitrary and illegal and the adhoc/temporary service rendered by the petitioner for a period of 03 years and 02 months be taken into account as qualifying service for computing the eligibility of the petitioner for the grant of pensionary benefits.

As per the averments made in the petition, the petitioner joined the respondent-University as Clerk on 26.05.1992 through proper channel but was appointed on adhoc basis. The petitioner continued working as such till his services were regularized by the respondent-University on 20.09.1996. Thereafter, the petitioner continued working as such till he attained the age of superannuation on 31.03.2005 and retired from service as a Junior Technician. As the total length of service of the petitioner was 12 years and 10 months, he claimed that he was entitled for the grant of pensionary benefits, which claim was rejected by the respondent-University by stating that his qualifying service was taken into account from 20.09.1996 onwards and the earlier adhoc service, which the petitioner had rendered from 26.05.1992 has not been taken into account.

The petitioner raised the said grievance before the authorities concerned and by the impugned order dated 03.01.2007 (Annexure P/11), the said claim was rejected by the respondent-University on the ground that adhoc/contractual service cannot be taken into account for computing the qualifying service for the grant of pensionary benefits and as the petitioner



CM-14536-CWP-2024 in/& -3-
CWP-1978-2007 (O&M)

has less than 10 years of service to his credit, the grant of pensionary benefits have been declined by the respondent-University.

Learned counsel for the petitioner argues that once, the petitioner was in continuous service of the respondent-University from the date of his initial appointment and as the adhoc/temporary service rendered by the petitioner have been regularized by the respondent-University on 20.09.1996, keeping in view Rule 3.17 (a) of the Punjab Civil Services Rules, which is applicable in the present case, which rule has been interpreted by the Full Bench of this Court in **Kesar Chand vs. State of Punjab and others, AIR 1988 (2) PLR 223** wherein, it has been held that the adhoc service followed by regularized service is to be taken into account for computing the qualifying service for the purpose of grant of pensionary benefits and hence, action of the respondent-University declining the said benefit to the petitioner is totally arbitrary and illegal.

Learned counsel for the respondent-University submits that though, the petitioner was appointed with the respondent-University on 26.05.1992 on adhoc basis but as his services were regularized on 20.09.1996, only the regular service can be taken into account for computing the qualifying service for the grant of pensionary benefits but learned counsel for the respondent-University concedes that Rule 3.17 (a) of the Punjab Civil Services Rules is being followed by the respondent-University for computing the qualifying service admissible for the grant of pensionary benefits.

I have heard learned counsel for the parties and have gone through the record with their able assistance.



CM-14536-CWP-2024 in/& -4-
CWP-1978-2007 (O&M)

In the present petition, the only grievance of the petitioner is that his adhoc service for a period of 03 years and 02 months have not been taken into account as qualifying service for the grant of pensionary benefits. Learned counsel for the respondent-University conceded the fact that the petitioner worked with the respondent-University on adhoc/temporary basis for a period of 03 years and 02 months starting from 26.05.1992 till his services were regularized on 20.09.1996. Once, the adhoc/temporary service has been taken into account for regularizing the services of the petitioner, the said adhoc/temporary service cannot be ignored for computing the same as qualifying service so as to adjudge the entitlement of the petitioner for the grant of pensionary benefits.

Further, law on this issue is clear. The Full Bench of this Court in *Kesar Chand (supra)* has held that adhoc service followed by regularized service is to be taken into account for computing the qualifying service for the purpose of grant of pensionary benefits.

Learned counsel for the respondent-University has not been able to rebut that keeping in view the judgment of the Full Bench of this Court in *Kesar Chand (supra)*, which has interpreted the rule governing the service, which is also applicable upon the petitioner, benefit of adhoc/temporary service is to be given for computing the qualifying service for the grant of pensionary benefits.

Keeping in view the facts as mentioned hereinbefore coupled with the settled position of law settled by the Full Bench of this Court in *Kesar Chand (supra)*, action of the respondent-University in declining the petitioner benefit of adhoc/temporary service for a period of 03 years and



CM-14536-CWP-2024 in/& -5-
CWP-1978-2007 (O&M)

02 months is held to be arbitrary, illegal and contrary to the settled principle of law settled by the Full Bench of this Court in *Kesar Chand (supra)*. Hence, the impugned order dated 03.01.2007 (Annexure P/11) is set aside. The respondent-University is directed to give the benefit of adhoc/temporary service for a period of 03 years and 02 months as qualifying service so as to determine the eligibility of the petitioner for the grant of pensionary benefits.

Learned counsel for the respondent-University has not been able to dispute that in case, benefit of adhoc/temporary service is given to the petitioner, the petitioner will have more than 10 years of service to his credit to be eligible for the grant of pension but submits that as there was no option exercised by the petitioner as he was being treated ineligible for the grant of pension, in case, the petitioner opts for pension than only the pensionary benefits will be granted to him.

Learned counsel for the petitioner submits that as per his instructions, the present petition was only filed so that the petitioner can avail the benefit of pension hence, it be deemed that the petitioner has opted for pension under the Old Pension Scheme for the grant of pensionary benefits.

Keeping in view the above, the respondent-University is directed to compute the qualifying service of the petitioner starting from 26.05.1992 till the date of his retirement and compute his pensionary benefits as admissible to him including the pension as well as arrears of pension.

At this stage, learned counsel for the petitioner submits that the



CM-14536-CWP-2024 in/& -6-
CWP-1978-2007 (O&M)

petitioner is agitating his claim for the last 17 years and though, the judgment of the Full Bench of this Court in Kesar Chand (supra), which covers the case of the petitioner, was available with the respondent-University, the benefit has been declined to the petitioner by the respondent-University by ignoring the said settled principle of law hence, the petitioner is also entitled for the grant of benefit of interest.

Learned counsel for the respondent-University submits that the eligibility of the petitioner for the grant of pensionary benefits has been decided by this Court in the present petition today only hence, the prayer of the petitioner for the grant of interest may kindly be declined.

The respondent-University is to apply the law already settled on each and every case. No reason has been given as to why the adhoc/temporary service could not have been taken into account for computing the eligibility of the petitioner for the grant of pensionary benefits by ignoring the settled principle of law settled by the Full Bench of this Court in Kesar Chand (supra) and the petitioner was made to litigate for his entitled benefits for a period of 17 years hence, he petitioner is also held entitled for the grant of benefit of interest @ 6% per annum on the pensionary benefits as well as pension and its arrears from the date the same became due till the actual payment of the same.

Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

Present petition is allowed in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

September 18, 2024
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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