



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-12333-2023 (O&M)
Date of decision: 06.08.2024

Baljeet Kaur

....Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Atul Arya, Advocate for the petitioner

Ms. Vibha Tewari, AAG Haryana

AMAN CHAUDHARY. J. (ORAL)

1. The prayer in the present petition is for quashing the order dated 02.09.2021 passed by the respondents denying to grant the benefit of the pension and pensionary benefits to the petitioner.
2. Learned counsel submits that the petitioner was appointed as Craft Teacher on contract basis on 15.08.1978, whereafter, her services was regularised vide order dated 16.07.1983 in the pay scale of Rs.400-10-490/15-600EB20. Thereafter, she was retired on 31.03.2017, however, was not granted pension and other retiral benefits, such as gratuity, leave encashment on the ground that she was not absorbed in the Government Department. He submits that the case of the petitioner is squarely covered on all four squares by the judgment passed by this Court in **Daya Rani vs. State of Haryana and Others** in CWP-8306-2015, decided on 07.03.2024. Relevant paras whereof read thus:

“xx xx xx

6. The only question which arise in the present petition is whether, keeping in view the facts that the other Craft Teachers



and the employees of the Panchayat Samiti have been extended the pensionary benefits, the same is liable to be extended to the petitioner or not.

7. It has already come on record that another Craft Teacher namely Saroj Bala, after her retirement on 28.02.2011, has been extended the pensionary benefits. Similarly, one Sunder Devi, who was also being denied the pensionary benefits, approached this Court in CWP No. 20123 of 2014 titled **Sunder Devi and another Vs. State of Haryana and others** decided on 18.10.2019 and during the pendency of the said petition, the said Sunder Devi has also been extended the pensionary benefits.

8. Further, the question as to whether, the employees of the Panchayat Samiti are entitled for the grant of pensionary benefits or not has also been decided by the Coordinate Bench of this Court while passing order in CWP No. 7778 of 2013 titled **Hanuman Vs. State of Haryana and others** decided on 16.01.2020 wherein, the employee of a Panchayat Samiti has been held entitled for the grant of pensionary benefits. The relevant paragraph No. 6, 7 & 8 are reproduced as under:

6. In the reply, it is not denied that Section 15(1) above would come into operation in case the same is not covered by the 1961 Act. The only objection raised is that the petitioner was never absorbed in the Government and the petitioner continued to work in Panchayat Samiti and retired as such. Further, the Panchayat Samiti is dependent upon its own sources and, therefore, is not liable to pay pension. However, the said argument does not help. Section 15(1) specifically states that members of the service of Punjab Panchayat Samitis and Zila Parishads shall be governed by the provisions of the Punjab Civil Services Rules and it is not denied that Punjab Civil Services Rules also include Pension Rules which allows pension, gratuity and leave encashment.

7. This Court in the case of Shardha Ram @ Bashir Ahmed vs The State of Haryana and others in CWP No.10051 of 1992 decided on 05.03.2012, while allowing to grant pension to petitioner, who was a Chowkidar and was treated as an employee under the Punjab Samiti and retired as such on 03.09.1991 was held to be entitled to the pension, gratuity and leave encashment. The argument that he was allowed pension as he was subsequently held an employee of State Government as the said employee was absorbed in the office of Deputy Commissioner does not help. In the said case, the instructions dated 24.11.1991 were invoked in order to grant the benefit of previous service in the Panchayat Samiti towards pension and gratuity. In the present case, Section 15(1) of the 1965 Rules makes



it clear that the Punjab Civil Service Rules are applicable to the Panchayat Samiti. The applicability of Punjab Civil Service Rules to the petitioner is not denied either in the reply or before this Court.

8. Hence, this Court does not find any bar in granting the claim of the petitioner. The petition is accordingly allowed. In case, the amount of CPF has been received by the petitioner at the time of his retirement, the same be refunded alongwith interest and the same be adjusted against arrears of the pension payable to the petitioner.

9. A bare perusal of the above reproduction would show that by a categoric pronouncement, the employees of Panchayat Samiti have been held entitled for the pensionary benefits.

10. Learned counsel for the respondent has not been able to rebut the said fact. Keeping in view the above mentioned position, where, the respondent themselves have granted the pensionary benefits to the other Craft Teachers and the entitlement of the employees of the Panchayat Samiti to the retiral benefits has already been upheld while passing the order in **Hanuman's case** (Supra), denial of the said benefit to the petitioner is totally arbitrary, illegal and in fact discriminatory.

11. It may be noticed that the Panchayat Samiti considered the claim of the petitioner and pass a resolution vide (Annexure P-14) dated 08.03.2019 holding that that the petitioner is entitled for the grant of pensionary benefits but sent the case to the Government for approval. It is only that the Government has not granted the approval, the Panchayat Samiti has not paid the retiral benefits, despite allowing the same. Once the Panchayat Samiti is an employer and has passed the resolution accepting the claim of the petitioner for the grant of pensionary benefits, no approval was required to be taken from the Government hence, even otherwise, once the employer of the petitioner has already found the petitioner entitled for the pensionary benefits, the respondent should have released the same without waiting for the approval of the government.

12. Resultantly, the claim of the petitioner for the grant of retiral benefits, as extended to the other similarly situated employees is allowed and the respondents are directed to release all the pensionary benefits, which have been released in favour of the other Craft Teachers namely Saroj Bala, Sunder Devi as well as Hanuman.”

3. Learned State counsel has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.



4. In wake of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Daya Rani** (supra).

(AMAN CHAUDHARY)
JUDGE

06.08.2024
M.Kamra

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