110+259 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-17839-CWP-2024 in/and
CWP No.13923 of 2023
Date of Decision : 18-12-2024

RASJEET KAUR ....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manu K. Bhandari, Advocate and
Mr. Rohit Kataria, Advocate for the petitioner.

Mr. Shruti, AAG Punjab.

Mr. Sanjeev Roy, Advocate
For respondent No.4-University.

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HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance being raised by the petitioner is that the petitioner was working with the respondent-State in the Department of Education for a period starting from 17.07.1991 till 09.11.2011 after which, the petitioner, with the due permission of the State applied for the post of Senior Warder in the respondent-University, Patiala where she was selected and appointed.

The grievance of the petitioner is that the service of the petitioner rendered with the State of Punjab has not been taken as a qualifying service for computing her pensionary benefits after the petitioner attained the age of superannuation while working with the Punjabi University, Patiala.

The prayer of the petitioner is to direct the University to take into account the total service rendered by the petitioner starting from the period from 17.07.1991 to 09.11.2011 as the petitioner is to retire on 31.12.2024.

Upon notice of motion, the respondents have filed their reply. In the reply, the respondents have stated that after the petitioner joined the service of the University in the year 2011, the benefits admissible to the petitioner qua the service rendered with the State could have been allowed in case, the State of Punjab transfers the benefits admissible to the petitioner to the University and it is only under those circumstances that the service of the petitioner with the Government of Punjab could have been taken into account as a qualifying service for computing the pensionary benefits but as no contribution has been submitted by the State of Punjab qua the service rendered by the petitioner with the State of Punjab, the benefit of service rendered by the petitioner with the State of Punjab cannot be granted.

Learned State counsel submits that the petitioner had left the service of the respondent-Department at her own volition so as to join the University hence, the respondent-State is not bound to transfer the benefit admissible to the petitioner for the service rendered by her with the State of Punjab starting from 17.07.1991 to 09.11.2011.

Learned counsel for the petitioner submits that during the pendency of the present petition, the benefits admissible to the petitioner qua the period from 17.07.1991 to 09.11.2011 have already been transferred by the State to the University but the same has been done without the payment of interest and on the amount transferred to the University and the University is not accepting the amount without the payment of interest on the said amount hence, the respondent-State is liable to be directed to pay the University and the University, the interest on the amount transferred to the University so that the petitioner can get the benefit of total length of service qua the pensionary benefits as per the entitlement of the petitioner.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

From the documents, which have been brought on record shows that the petitioner while working with the State of Punjab applied for the post of Senior Warder, which application was duly forwarded by the respondent-State to the University concerned.

After being selected, the petitioner was relieved by the State of Punjab to join the said University. Under these circumstances, it can be safely said that the petitioner joined the University after due permission of the State.

Once, the petitioner had left the service of the respondent-State in November, 2011, the State was responsible for forwarding the benefits admissible to the petitioner for the period the petitioner had worked with the State i.e 17.07.1991 to 09.11.2011 to the respondent-University so that the same could be paid at the time of a retirement of the petitioner by the University so as to treat the total length of service of the petitioner with both the institutions as a qualifying service.

Concededly, the said amount has already been released now by the State of Punjab to the University but the only question is whether the statutory interest is to be paid by the State of Punjab to the University or not?

Keeping in view that the amount admissible to the petitioner after she left the said job with the State of Punjab in November, 2011, the money has been retained by the State and used. As per the judgment of the Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*****,** had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification same will be application where an institution had released the amount which was to be transferred to another institution. The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

> *"The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."*

In the present case, the State is liable to pay the interest also on the amount which was retained by them belonging to the petitioner, which amount was ultimately remitted to the University so that the service rendered by the petitioner with the State of Punjab for a period starting from

17.07.1991 to 09.11.2011 as a qualifying service for computing her pensionary benefits.

Keeping in view the facts and circumstances of the present case, the State is directed to remit the University statutory interest @ 12% per annum also on the payment which the State had made to the University for the period the petitioner has served with the respondent-State.

Without awaiting the transfer of the statutory interest, the respondent-University is directed that the total length of service rendered with both the institutions be taken into account for computing the pensionary benefit. In case, any amount of statutory interest as directed by this Court is not remitted by the State, the University can avail appropriate remedy including filing of the application in the present writ petition.

Let the University comply with the formalities for releasing the pensionary benefits of the petitioner and release all the arrears admissible to the petitioner within a period of 8 weeks from the receipt of copy of this order.

Present petition is disposed of in above terms.

18-12-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO