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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9029-2018

Date of Decision: 09.12.2024

V.K. SHARMA AND OTHERS

..... PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ranjit S. Saini, Advocate
for the petitioners.

Ms. Tanushree Gupta, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed seeking a writ of *certiorari* quashing the order dated 08.02.2018, Annexure P-12, whereby the petitioners' claim for the benefit of full pension on completion of twenty years of service, as has been extended to the Government College employees, has been declined; and further, a writ of *mandamus* has been sought directing the respondents to grant the benefit to the petitioners at par with the Government College employees.

2. The facts necessary to adjudicate the matter are, all the petitioners are retirees from private colleges getting grant-in-aid from the

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Government, and have been released pensionary benefits under the Haryana Affiliated Colleges (Pension and Contributory Fund) Rules, 1999 (hereinafter referred to as 'the Pension Rules, 1999'). As per recommendations of the Sixth Pay Commission, the matter regarding revision of pension/family pension of retirees from non-government aided colleges was considered by the State Government. And vide memo dated 12.10.2010, Annexure P-3, it was decided to revise their pension, family pension and DGRC benefit (except leave encashment and commutation of pension) with effect from 01.01.2006. In terms therewith, the benefit of full pension was extended to them on completion of twenty-eight years of qualifying service from 12.10.2010, i.e., the date of issuance of the memo. It was also stipulated that necessary amendments in terms of the memo will be made in the Pension Rules, 1999.

2.1. Similar pensionary benefits were payable to the Government employees as well under the Haryana Civil Services (Revised Pension) Part-II, Rules, 2009, (hereinafter referred to as 'the 2009 Rules'); Rule 8 thereof provided for full pension to government servants who retired after rendering minimum qualifying service of twenty-eight years. However, the Government subsequently issued another notification dated 25.08.2014, under the 2009 Rules adding sub-rule (1A) to Rule 8, providing that the benefit of full pension to Government servants would be admissible after rendering minimum qualifying service of twenty years, instead of twenty-eight years.

2.2 Some aided college teachers, who were similarly placed as the

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petitioners herein, approached this Court by filing a writ petition, CWP-1982-2015 titled *Nand Kishore Bansal and Others v. State of Haryana and Others*, which was decided vide judgment, dated 13.07.2016, by setting aside the condition contained in memo, dated 12.10.2010, restraining the benefit of full pension after rendering twenty-eight years of service only to persons retiring after that date, and directing that the benefit would be admissible to the aided college teachers from the date it was granted to government college employees/teachers, i.e., 17.04.2009.

3. In this background, learned counsel for the petitioners contends that as the petitioners are similarly placed as the government college teachers, they are also entitled to payment of full pension on completion of twenty years, instead of twenty-eight years. The decision to give them full pension after rendering twenty-eight years of service is discriminatory, and a writ of *mandamus* needs to be issued to the respondents to grant the benefit of full pension to the pensioners as well, in terms of notification dated 25.08.2014. To support his contentions, he has relied upon the judgment in *Nand Kishore Bansal* case.

4. Learned State counsel, on the contrary, contends that the benefit is not admissible, since the petitioners are not similarly placed as the government college employees. Pensionary benefits to the petitioners are regulated under the Pension Rules, 1999, and there is no amendment in the Rules providing for full pension after rendering twenty years of service. Full pension is admissible to them only on rendering twenty-eight years of service as per memo dated 12.10.2010.



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5. Heard.

6. As apparent on record, it is undisputed that the petitioners are retirees from Government aided colleges, and pensionary benefits to them are governed by the Pension Rules, 1999. A specific provision has been made in terms of memo, dated 12.10.2010, providing for full pension after rendering twenty-eight years of service. However, pensionary benefits to Government college employees are governed under the 2009 Rules, wherein sub-rule (1A) to Rule 8 provides that the retirees will get full pension after rendering twenty years of service. It is not disputed that there is no such provision in the Pension Rules, 1999, which entitles pensionary benefits to the retirees from aided colleges on the same lines. In the absence of any provision in the Rules, no *mandamus* can be issued to extend the benefit to the petitioners. Neither can the aided college employees be treated on equal footing as the Government employees only because they are getting salary grant/grant-in-aid from the Government. It does not confer upon them a status equal to that of Government employees/retirees, nor can they claim every benefit that has been extended to the latter. They remain employees of private managements, their services are governed under the Haryana Affiliated Colleges (Security of Service) Act, 1979, and pensionary benefits are payable to them under the Pension Rules, 1999, which is not the case with the Government employees/college teachers.

7. Reliance placed by learned counsel for the petitioners on the judgment rendered by this Court in *Nand Kishore Bansal* case is also

misplaced, since the issue adjudicated by the Court was whether the benefit



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of full pension extended to aided college employees on completion of twenty-eight years of service was to be given from the date of issuance of memo dated 12.10.2010, or from the date the same benefit was extended to the Government servants. This Court held that the aided college employees will be entitled to the benefit from the date it was given to the Government employees. In the instant case, however, the benefit of full pension on completion of twenty years' service as admissible to Government employees under sub-rule (1A) to Rule 8, vide notification dated 25.08.2014, has not at all been extended to the aided college retirees; therefore, the same cannot be claimed by relying upon the judgment.

8. In view thereof, there is no merit in the petition, and it stands dismissed.

09.12.2024

Seema

(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*