



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(228)

CWP No. 25762 of 2017 (O&M)

Date of Decision : 29.08.2024

Devinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Dr. Surya Parkash, Advocate with
Mr. Jaskirat singh, Advocate,
Mr. Vikram Garg, Advocate and
Mr. Sukhvir Gill, Advocate for the petitioner.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

Mr. Navpreet Singh, Advocate for respondent No. 3.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the prayer of the petitioner is that service rendered by the petitioner in a Government Aided Private Institution be treated as a valid service for the grant of pay, pay protection and also for the grant of pensionary benefits.

2. The further prayer of the petitioner is that as the petitioner joined the State of Punjab in the year 2013, keeping in view the fact that the petitioner was already working on a pensionary post, even while discharging the duties in a Privately Managed Aided Institution, petitioner is entitled for consideration under the Old Pension Scheme keeping in view the judgment



of the Division Bench of this Court in CWP No.2371 of 2010 titled as ***Harbans Lal Vs. State of Punjab and others***, decided on 31.08.2010.

3. Learned counsel for the petitioner submits that with regard to the grant of pay protection and considering the service rendered in the Privately Managed Aided Institution as a qualifying service, the said issue has already been decided by the Co-ordinate Bench while passing order in CWP No. 4629 of 2012 titled as ***Sunil Kumar Sharma and others Vs. State of Punjab and others***, decided on 19.02.2018, which judgment has already attained finality and the benefit has already been granted to the similarly situated employees.

4. Learned counsel for the respondents has not been able to rebut the fact that the similar relief, as being claimed by the petitioner in the present petition has already been extended by the Co-ordinate Bench in ***Sunil Kumar Sharma (supra)***, which judgment has already attained finality, hence, with regard to the grant of pay protection and counting the service rendered by the petitioner in the Privately Managed Aided Institution towards qualifying service, the claim is allowed in terms of ***Sunil Kumar Sharma (supra)***.

5. The further prayer of the petitioner with regard to the grant of benefit under the Old Pension Scheme, once the petitioner was in service prior to the year 2004 and the benefit of the said service has been given to the petitioner for pay protection and even for counting the pensionary benefits as a qualifying service, keeping in view the judgment of the Division Bench in ***Harbans Lal (supra)***, the petitioner is deemed to be in service prior to



01.01.2004 for all intends and purposes so as to make him entitled for the grant of benefit under the Old Pension Scheme.

6. Learned counsel for the respondents has not been able to point out any argument so as to deny the petitioner the benefit of Old Pension Scheme, especially when, service of the petitioner prior to 01.01.2004 is being taken into account for fixing his pay as well as pensionary benefits, hence, the claim of the petitioner for the grant of pensionary benefits under the Old Pension Scheme is also allowed keeping in view the judgment in ***Harbans Lal (supra)***, which judgment has already attained finality.

7. Present petition is allowed in above terms.

8. Let the order be complied within a period of eight weeks of the receipt of copy of this order.

9. Pending miscellaneous application, if any, also stands disposed of.

August 29, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes