



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(109+259)

CM-21285-CWP-2023 in/and
CWP NO.29561-2022(O&M)
DATE OF DECISION: 24.09.2024

Malkiat Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM HON’BLE MR.JUSTICE HARSIMRAN SINGH SETHI

Present Ms. Aarushi Garg, Advocate,
for the petitioner.

Mr.TPS Chawla, Sr.DAG, Punjab.

Mr. M.K.Dogra, Advocate,
for respondents no.2 and 3.

HARSIMRAN SINGH SETHI J, (ORAL)

CM-21285-CWP-2023

The present application is for placing on record the written
statement of respondents no.2 and 3.

Allowed, as prayed for.

Written statement on behalf of respondents no.2 and 3 is taken on
record subject to all just exceptions.

CWP NO.29561-2022(O&M)

1. In the present petition, the grievance being raised by the petitioner
is that the benefit of past service rendered by the petitioner in an Institution
which is maintained by the respondent – University, is not being given to the



petitioner with regard to the protection of pay as well as other service benefits, which is arbitrary and illegal.

2. Learned counsel for the petitioner argues that the petitioner was appointed as an Asstt. Professor in Political Science at Guru Nanak Dev University College Chung, District Tarn Taran on the pay scale of Rs.15600 – 39100 + 6000 grade pay on 01.11.2012. The petitioner joined and continued working there and his service was ultimately confirmed on the post in question on 26.11.2013. Thereafter, the petitioner was granted the promotion from stage I to stage II in the cadre of Asstt. Professor under the Career Advancement Scheme on 22.09.2017. The petitioner's grade pay was enhanced to Rs.7,000/-.

3. On 20.03.2018, the respondent- University advertised various posts vide Advertisement no.2 of 2018 and the petitioner applied for the post of Asstt. Professor in Political Science to be filled in the main campus of the Guru Nanak Dev University Amritsar, which was in the same pay of Rs.15600 – 39100 + Rs.6,000/- as grade pay. The petitioner was duly allowed to apply for the same as he was given No Objection Certificate by the Institute/University to compete for the post.

4. Thereafter, the petitioner got selected on the post of Asstt. Professor in the department of Political Science in the main Campus of University on 22.06.2018.

5. Before the petitioner could join, he requested the respondents to either allow him to join the post in question or grant him extraordinary leave without pay till he completes his probation period on the newly selected post, whereas, the respondents forced the petitioner to resign and the petitioner resigned from the post of Asstt. Professor in the Guru Nanak Dev University

College, Chung, District Tarn Taran so as to join as Asstt. Professor in Political



Science in the Guru Nanak Dev University Campus, Amritsar. The petitioner joined on the said post in Campus after the resignation submitted by the petitioner on 29.06.2018 with respect to the post at Chung.

6. After joining the new post of Asstt. Professor of Political Science in Guru Nanak Dev University Campus, Amritsar, the petitioner claimed that he has competed for the post in question with due permission from the respondent-University and hence, he is entitled for pay protection and other benefits with regard to the service rendered as Asstt. Professor in the Guru Nanak Dev University College, Chung. The said benefits have been denied to the petitioner, which action is under challenge in the present petition.

7. Upon notice of motion, the respondents have stated that the petitioner had submitted a resignation, which was accepted by the University and therefore, resignation will wash away all the previous service in the said cadre and therefore, no benefit of service rendered by the petitioner as Asstt. Professor in Guru Nanak Dev University College, Chung will be admissible to the petitioner qua the post of Assistant Professor in Political Science in Guru Nanak Dev University Campus. The further objection of the respondent - University is that as per the appointment order of the petitioner (Annexure P-5), any service rendered by the petitioner prior to the joining on the new post will not be taken into account for grant of any service benefits.

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

9. The question which arises for determination is whether, in the facts and circumstances of the present case, the resignation will forfeit the benefit of the earlier service or not?



10. From the pleadings, it is a conceded fact that the petitioner competed for the post of Asstt. Professor in Political Science in Guru Nanak Dev University Campus, Amritsar with the due permission of the employer at the relevant time. The petitioner got selected and then applied for grant of No Objection Certificate to join the duties on the said post for which, the petitioner was asked to tender the resignation for the post in Chung so as to join the new duty in main Campus.

11. It may be noticed that the resignation was given after the petitioner was already selected on 22.06.2018 (Annexure P-5), which was accepted on 29.06.2018 (Annexure P-6) and the petitioner immediately joined the new post with the Guru Nanak Dev University Campus, Amritsar.

12. That being so, the said resignation is to be treated as a technical resignation so as to join the new assignment. The same is not to be treated as a normal resignation given by an employee which will liable forfeit previous service. Once, the permission has been taken by way of resignation to join the new post, the earlier service rendered by the petitioner could not have been taken away so as to deny him the benefit of pay protection and other service benefits for the service rendered at Guru Nanak Dev University College, Chung.

13. The second argument which has been raised by the learned counsel for the University is that as per the clause 8 of the Appointment Order (Annexure P-5), the petitioner is estopped from clearing the benefit of earlier service. The relevant clause 8 of the Appointment Order reads as under:-

“8. Your appointment will be w.e.f. date of joining the University and previous service rendered by you in any outside institution / university prior to your joining shall not be counted after



your joining on the present direct appointment on the aforesaid post in this university for any service benefit for any purpose what so ever, not even for counting it as a part of your qualifying service for grant of retrial benefits in this university.”

14. A bare perusal of above would show that only the service which is rendered with the outside Institution or the University is not to be counted. Whereas, services of the petitioner for which, the claim is raised is with the Guru Nanak Dev University College, Chung, which concededly is a part of the University itself. Hence, clause 8 is not being interpreted correctly by the University Authority so as to deny the petitioner the benefit of past service. It is only in case the services are rendered by an employee with the outside Institution or outside University, the same has to be declined.

15. Keeping in view the above, the claim of the petitioner for grant of benefits as admissible under the University statute with regard to the service rendered by the petitioner as Asstt. Professor at Guru Nanak Dev University College, Chung, District Tarn Taran be given to the petitioner after his appointment as Asstt. Professor Political Science in the Guru Nanak Dev University Campus for all intent and purposes, from the date the petitioner joined the service as Assistant Professor in Political Sciene in Guru Nanak Dev University Campus.

16. Let the benefit for which the petitioner is entitled for in respect of the service rendered as Asstt. Professor in Guru Nanak Dev University College, Chung be ascertained and be extended within a period of eight weeks from the date of receipt of copy of this order.

17. Allowed, in the above terms.

18. Pending application, if any, also stands disposed of.

24.09.2024
mamta

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No