IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Serial No. 209

CWP-3467-2000
Decided on:26.11.2025

Dr. R. P. Kapoor (Deceased through LRs) . . . Petitioner

Versus

Kurukshetra University and another . . Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. K. K. Gupta, Advocate for the petitioner.

Mr. A. S. Virk, Advocate for the respondent-University.

TRIBHUVAN DAHIYA, J.(ORAL)

The petition has been filed for release of full pensionary benefits to the petitioner which were wrongly withheld during the period of his employment post-retirement.

2. The facts of the case in brief are, the petitioner, who unfortunately is no more and is represented by his legal representatives, retired as Professor and Chairman of Chemistry Department in the respondent-University on 31.08.1997. Next day he was appointed as visiting Professor of Industrial Chemistry by the management of a private educational institution, Guru Nanak Khalsa College, Yamuna Nagar. An appointment letter to that effect dated 01.09.1997, Annexure P-1, was issued. It is to the effect that he would be paid honorarium of ₹8,000 per month with free unfurnished accommodation in addition to the pension he would be getting from the Kurukshetra University. Accepting the offer, the petitioner joined the College, and, on 02.09.1998, he

submitted an affidavit to that effect, Annexure P-2, to the University informing about the appointment and other terms thereof.

2.1 On submission of pension papers with 'No Dues Certificate' from the Department, the petitioner received pension payment order dated 19.11.1998, but was denied dearness allowance on pension as well as commutation of pension. He represented against it vide letter dated 21.12.1998, Annexure P-3, but no action was taken in the matter. His subsequent representations in this regard also did not bring the desired result, nor were full pensionary benefits released to him. He worked in the college up to 31.08.2012, and thereafter made a request for restoration of full pensionary benefits with immediate effect and for release of arrears of all deductions made from his pension between 01.09.1997 to 31.08.2012 vide letter dated 03.09.2012, Annexure R-5. The request was not accepted. In these circumstances, he approached this Court by filing the instant petition.

2.2. Written statement was filed on behalf of the University taking the following objections:

> … The aforesaid relief claimed by the petitioner is not admissible to him at all, because of the factum that after retirement the petitioner has been re-employed in the Guru Nanak Khalsa College, Yamunanagar on honorarium @ Rs. 8,000/- P.M. Rule 7.18 of Punjab Civil Services Rules, Volume II, which regulates the salary of re-employed persons clearly provides that a person may draw his pay on re-employment, but his pay on re-employment plus all retiral benefits should not exceed the last pay drawn by him before his retirement. The present employer of the petitioner i.e. the Guru Nanak Khalsa College has not kept in view Rule 7.18 of C.S.R.Vol.II while fixing the Honorarium of the petitioner as Rs.8000/- P.M. plus free un-furnished accommodation.

To deny the pensionary benefits, a reference has also been made to a letter from the Director, Higher Education, dated 26.11.1998, Annexure R-1, which makes reference to Rule 7.18 of the Punjab Civil Services Rule, Volume-II (hereinafter referred to as 'CSR'). It regulates the salary of re-employed persons and provides that they may draw pay on re-employment but the pay plus pension should not exceed the pay he drew before retirement. Since the honorarium plus superannuation benefits of the petitioner were ₹16,700 per month, which were more than the last salary drawn by him, i.e., ₹14,308 per month, he was paid basic pension and dearness relief/allowance at fixed rate on basic pension so that his pensionary benefits plus superannuation benefits plus honorarium do not exceed the last salary drawn. This has been stated in the additional affidavit, dated 20.03.2025, filed by the University Registrar. It also mentions that after the petitioner left the College at Yamuna Nagar, he was released full pension along with dearness allowance with effect from 01.09.2012, vide letter dated 31.10.2012, Annexure R-6.

3. In the factual background, learned counsel for the petitioner contended that the University wrongly denied full pension and dearness allowance to the petitioner by considering his appointment with the private educational institution/college as re-employment, which was not the case. An employee can only be re-employed with the same employer, whereas the petitioner accepted employment in an independent educational institution. Accordingly, there was no basis to deny full pensionary benefits to him. Rule 7.18 of CSR, has no application to the facts of the case. He has relied upon a judgment rendered by the Delhi High Court in *E. Sreedharan* v. *Union of India*, 2008(18) SCT 140, in this regard.

4. Learned counsel for the University, on the contrary, contended that the petitioner was not entitled to the benefits claimed since he remained re-employed with the College up to 31.08.2012. Soon after his leaving the job, and with effect from that date, entire due benefits were released to him. The University remained bound by Rule 7.18 CSR, and in terms thereof full pensionary benefits were not admissible to him.

5. Submissions made by learned counsel for the parties have been considered.

6. As apparent on record, the petitioner retired from the University as Professor and Chairman of Chemistry Department on 31.08.1997, and accepted the offer of appointment as visiting Professor in a private College from 01.09.1997 on honorarium of ₹8,000 per month with free unfurnished accommodation. He worked there as such upto 31.08.2012. During the period of his assignment with the College, the University did not give him full pensionary benefits, and kept on paying only basic pension with dearness allowance at fixed rate on that pension. It was because his appointment with the private College was considered re-employment under Rule 7.18 CSR, and on account of his honorarium plus superannuation benefits being more than the last salary drawn by him in the University, he was not found entitled to full pension and other retiral benefits. This gives rise to the question - whether the petitioner was to be considered in re-employment for the purpose of pension and, consequently, the University was entitled to withhold his retiral benefits by invoking Rule 7.18 of CSR, which reads as under:

> E.- AFTER SUPERANNUATION OR RETIRING PENSION
> 7.17 xxx xxx xxx
> 7.18 The authority competent to fix the pay and allowances of the post in which the pensioner is re-employed shall determine

whether his pension shall be held wholly or partly in abeyance. If the pension is drawn wholly or in part, such authority shall take the fact into account in fixing the pay to be allowed to him.

Note 1. and Note 2. xxx xxx xxx

Note 3.-(a) In determining the pay of a re-employed pensioner the following principles shall be observed namely:-

(i) xxx xxx xxx

(ii) if in any case pension is allowed in addition to pay, the pay plus pension including commuted portion, if any, shall not exceed the substantive pay drawn immediately before retirement or the maximum of the post in which he is re-employed, whichever is less.

(b) xxx xxx xxx

The Rule apparently applies to the authority competent to fix the pay and allowances of the post in which the pensioner is re-employed under the CSR. It is for that authority to determine whether his pension is to be held in abeyance wholly or in part. In the petitioner's case, such authority can only be the College where the petitioner accepted the employment post retirement; that too, if the CSR applies to the College, which is not the case at all. Further, this determination of pension in terms of the Rule aforementioned can be in a situation where the petitioner's appointment with the College is to be considered as re-employment, which also is not the case. The appointment letter issued to the petitioner by the College, dated 01.09.1997, is to the effect that he has been '*appointed as Visiting Professor in Industrial Chemistry for a period of two years with Rs. 8000/- per month as honorarium + free unfurnished accommodation. This will be in addition to the pension that you will be getting from Kurukshetra University, Kurukshetra.*' It was a fresh appointment by a new employer, after the petitioner superannuated from the University service. By no stretch of imagination could it be termed re-employment in the

University as the College was not with the University. It was not an institution financed or funded by the University, nor under its management and control. Apparently, the petitioner's employment was by a new employer/college on payment of honorarium with a clear stipulation that the same was in addition to the pension that he would be getting from the University. Therefore, there was no occasion for the University to assume the role of petitioner's employer post retirement and truncate his retrial benefits in that capacity. The action is a result of complete misreading of the Rule in defiance of all logic, and patently arbitrary.

6.1 In similar circumstances, the Delhi High Court has held in *E. Sreedharan* case (*supra*) that the petitioner therein, who had superannuated from service of the Indian Railways, cannot be considered to be re-employed after he accepted a fresh appointment as Chairman-cum-Managing Director of an independent corporation/ the Konkan Railway Corporation Limited, a public limited company, which is an independent entity. The reduction of pension on the ground of re-employment was, therefore, held inadmissible. The observations recorded in this regard are the following:

> 30. For the forgoing reasons the inevitable inference is that the petitioner appointment as CMD of an independent Corporation was not re-employment in Civil Services or on a post in connection with the affairs of the Union Government. The petitioner was `Appointed' to the post of CMD of the Respondent no.4 and his salary was fixed as Rs.9000-10000 and the amount of pension which was received by the petitioner was not deductable from his salary. Consequently all the amounts which have been deducted by the respondents from the salary of the petitioner were illegal and the respondents are liable to refund all the amounts to the petitioner.

7. In view of the discussion, the petition is allowed and the University is directed to release full pension as well as other retiral benefits to the petitioner from 01.09.1997 to 31.08.2012. The amount will be paid with interest at the rate of seven per cent per annum from the date it became due to the date of actual payment. He is entitled to costs of the petition which are quantified as ₹1,00,000 (rupees one lakh). The directions are to be carried out and the costs are to be paid by the University within four weeks of receiving a certified copy of the order.

(TRIBHUVAN DAHIYA)
JUDGE

26.11.2025
Mehak

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No