



CWP-13451-2021

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**222 IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CWP-13451-2021
Decided on: 13.02.2025

Dr. J.P. Gupta and others

.... Petitioners

versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sameer Sachdeva, Advocate
for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

Tribhuvan Dahiya, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the orders dated 22.03.2016 and 25.04.2016, Annexures P-8 and P-9 respectively, whereby the petitioners have been denied salary for the period they were retained as Associate Professors in different colleges post-retirement in terms of interim order, dated 04.10.2010, passed by this Court in a batch of writ petitions with lead case, CWP-9665-2010.

2. As per facts apparent on record, the petitioners, who were working as Associate Professors in different colleges, had approached this Court along with other similarly placed teachers by filing different writ petitions seeking enhancement of their age of superannuation from sixty (in case of university teachers) and fifty-eight (in case of college teachers) to sixty-five years. This Court heard all these petitioners and passed interim order, dated 04.10.2010, to the following effect:



6. Those petitioners who came to this Court before their existing dates of retirement shall be allowed to continue (though may be posted anywhere in administrative exigencies), subject to the condition that they shall not be paid any salary beyond such dated of retirement.

3. These writ petitions were subsequently dismissed by the Court vide judgment dated 04.03.2011. The petitioners filed appeals against it, Civil Appeal Nos.5527-5543 of 2013 titled *Jagdish Prasad Sharma etc. v. State of Bihar and others*, which were also dismissed by the Supreme Court vide judgment, dated 17.07.2013, with the following observations:

67. However, persons who have continued to work on the basis of the interim orders passed by this Court or any other Court, shall not be denied the benefit of service during the said period.

4. In this factual background, learned counsel for the petitioners has contended that the petitioners continued working in different Colleges in terms of interim directions issued by this Court on 04.10.2010. Although the writ petitions were subsequently dismissed, they became entitled to service benefits including salary for the period they had worked post-retirement, in terms of interim directions issued by the Supreme Court to that effect. The rejection of their claim for salary for this period is, in fact, a violation of directions given by this Court as well as the Supreme Court. Further, learned counsel referred to a decision taken by Maharshi Dayanand University, Rohtak, vide memo dated 12.12.2013, Annexure P-17, whereby one retired Professor was paid salary in the running scale for the period he worked after attaining the age of sixty years, in terms of observation made by the Supreme Court. A reference



has also been made to cases of similarly placed teachers working with the Panjab University as well as the Punjab Government, who were also paid salaries for working beyond retirement, as it is apparent from orders/interim orders dated 09.07.2014 and 10.12.2014, Annexures P-18 and P-19 respectively, passed by this Court in the contempt petitions filed by them seeking the benefit. On the basis of parity to these cases, salary has been claimed for the petitioners as well.

5. Learned State counsel, on the contrary, has contended that the benefit is not admissible to the petitioners in terms of directions issued by the Courts, since they have never worked post- retirement. He has referred to specific instructions issued by the Government to that effect vide letters dated 21.10.2010 and 21.12.2010, Annexures R-I and R-II respectively, clearly stating that the *“petitioners would not be given any assignment/workload/other responsibilities.”* The stand taken in the written statement is to the following effect:

7. ...The interim order dated 14.07.2010, in compliance of which the petitioners were not relieved on the date of their retirement, itself provided that the petitioners shall not be entitled salary/emoluments for the period beyond their retirement. Accordingly, the directions were issued vide letters dated 21.10.2010 and 27.12.2010 (**Annexures R-I and R-II respectively**) to the respondents colleges for ensuring that no workload is to be assigned to the petitioners. Consequently, the petitioners though were not relieved as explained above but they actually did not perform any duty. Hence, they are not entitled to the salary etc. for this interim period. ...



6. Arguments advanced by learned counsel for the parties have been considered.

7. Considering the petitions filed by the petitioners and other similarly placed teachers seeking extension of service up to sixty-five years, this Court vide interim order, dated 04.10.2010, directed that *they shall be allowed to continue without payment of salary beyond the date of retirement*. It is on this condition that the petitioners continued as teachers in different Colleges. Their petitions, however, were dismissed, and the Supreme Court while dismissing their Civil Appeals observed that *the persons who continued to work on the basis of interim orders shall not be denied the benefit of service for the period*. Apparently, the observations are only to the effect that only those of the teachers would be entitled to service benefits who continued to work on the basis of interim orders. As per specific stand taken by the respondents, no work was assigned to the petitioners after the passing of interim order, dated 04.10.2010, and they did not work as teachers, though were allowed to continue in terms of the directions. This was as per instructions issued by the Department, dated 21.10.2010 and 27.12.2010, following the interim order. These facts have not been disputed by the petitioners by filing any counter affidavit. Accordingly, it stands established that they did not work, and cannot claim salary for the period they were retained post-retirement as, in terms of the interim directions, it is admissible only to those who continued to work.

8. Reliance upon the decisions taken by the Maharshi Dayanand University, Rohtak, or the Panjab University, or the State of Punjab to give



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salary to the teachers is also misplaced, since the benefit has been given to the concerned for working during the period of retention post-retirement. There is no material on record to indicate that they did not work as teachers in the concerned University/State.

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

13.02.2025
Sonia/Ad

(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No