



**209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-11563-2023

Date of Decision: 25.07.2025

Arvind Kumar

...Petitioner

Vs.

Panjab University, Chandigarh and Another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Akshay Kumar Goel, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent to count his past service for placement in the Senior Scale of Lecturer.

2. The petitioner joined Electronics Department of Moradabad Institute of Technology, Moradabad (hereinafter referred to as 'MIT') on 05.11.1998 as Lecturer. The respondent-Panjab University (hereinafter referred to as the 'University') invited applications for the post of Lecturer. The advertisement categorically provided that candidates in service must route their applications through proper channel. They may send an advance copy of their application on the prescribed performa directly to the University. The petitioner directly sent his application form to the University. His application did not route through his previous employer i.e. MIT. He came to be selected in the Department of

Microelectronics. He was issued appointment letter dated 26.08.2003 and was asked to join within 15 days from the date of receipt of letter. He, vide letter dated 08.09.2003, requested Vice Chancellor to grant extension in joining. The Vice Chancellor acceded to his request and allowed him to join by 26.09.2003. MIT relieved him on 20.09.2003 and he joined Panjab University on 26.09.2003. He submitted relieving letter and last drawn pay certificate. The petitioner was extended protection of last drawn salary without increment, however, he was not granted benefit of past service. He made a representation to respondent to consider his past service for the purpose of selection. The Vice Chancellor rejected his request vide communication dated 30.05.2013. On the request of petitioner, the matter was again put up before a Committee constituted by Syndicate. The Committee opined that petitioner should be extended benefit of past service. The relevant extracts of opinion of the Committee are as below:

“1. Application through proper channel

(in CWP No. 8417 of 2005): ...The fact that the petitioner had submitted her "relieving order" from her previous college, in terms of her appointment letter, before permitting to join the respondent-University indicates that there was nothing due or against the petitioner, and the respondent-University having accepted the same would, in the opinion of this Court, give rise to an inevitable inference that there is substantial compliance of the said condition.

Therefore, Since, Shri Arvind Kumar has submitted the relieving from his previous employer (Moradabad Institute of Technology) at the time of joining as Assistant Professor in Microelectronics in UIET, he is to be treated

to have complied with the requirement of applying through proper channel, as per decision of the Hon'ble Court quoted above."

3. The matter was put up before Syndicate which in its meeting dated 30.08.2015 resolved to refer the matter to a Committee to be constituted by Vice Chancellor. A Committee reconsidered the matter and opined that petitioner be allowed benefit of past service rendered at MIT. The opinion of Committee reads as:

"After some further discussion, the Committee unanimously resolved to recommend that Shri Arvind Kumar be allowed benefit of past service rendered at Moradabad Institute of Technology for placement/promotion from Lecturer to Lecturer (Sr. Scale) under CAS, in view of judgement of Hon'ble Punjab & Haryana High Court in CWP No. 8417 of 2005: Latika Sharma Vs. P.U. regarding break and service and application through proper channel, as he fulfil the other conditions prescribed by the UGC for counting of past service. After allowing the above benefit, Shri Arvind Kumar becomes eligible for promotion from Lecturer to Lecturer (Sr. Scale) w.e.f. 5.11.2004 (after completion of 6 years of service as per UGC)."

4. The respondent decided to seek opinion of its Legal Retainer who vide letter dated 13.02.2022 opined that petitioner be extended benefit of past service. The opinion of Legal Retainer reads as:

"In my considered opinion, the entire issue is no more res integra, rather the parameters have been set straight for long in Regulation 10 of the University Grants Commission Regulations, 2010 {relevant are sub Clause (c) and sub-clause (f) (iii) of Clause 10.1}, the only issue which remains is, whether one would fall under those

defined parameters or not, for which a perusal of the file service, both the requirements, as applicable, have been clearly interpreted by the Hon'ble High Court in CWP 8417 of 2015, CWP 3214 of 2002, CWP 12456 of 2012 and other such cases. The judgments passed in these cases, make it clear that firstly even relieving / NOC taken from the previous employer and only then being permitted to join the succeeding institution would fall within proper channel' (especially when there is no concealment and proper approval has been accorded) and secondly a technical break in service which indicated the item taken after leaving the previous institution, til the time of joining the successive Institution would not be counted as break-in service, the joining period taken between, one job to another at the time of switchover, is a break between the service and not a break in service. Moreover, the University has earlier accorded similar benefits to Dr Latika Sharma and Dr. Naveen Gupta, thus as the facts of the present case are analogous, parity has to be made. Therefore, the benefits of counting of past service, in this case, may be granted (excluding the break period of five / six days)."

5. Mr. Prateek Pandit, Advocate submits that petitioner though did not apply through proper channel yet was entitled to benefit of past service because it is a substantive right recognized by UGC Regulations. Routing of application through previous employer was a procedural formality. The petitioner cannot be denied substantive benefit on the ground of non-compliance of procedural formality which has not prejudiced the respondent. The Committees constituted by respondent as well as Legal Retainer of the respondent has opined in favour of the petitioner. This Court in '**Dr. Latika Sharma Vs. The Panjab University**

and Others’ (CWP No.8417 of 2005, decided on 17.09.2014) has considered the issue. The case of petitioner is squarely covered by said judgment. The respondent has already implemented the abovesaid judgment.

6. *Per contra*, Mr. Akshay Kumar Goel, Advocate submits that claim of petitioner is hopelessly barred by limitation. His claim was initially rejected in 2013. The opinion of the Committees and Legal Retainer cannot redress cause of the petitioner. There was categorical condition in the advertisement which was based upon UGC Regulations, thus, cannot claim benefit of past service without complying with said condition. The petitioner did not supply NOC at the time of interview though he submitted relieving letter at the time of joining.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. Concededly, the petitioner joined service as Lecturer on 26.09.2003. At the time of joining, he submitted relieving letter, experience certificate and last pay certificate. The respondent protected his last drawn salary. The petitioner while working with MIT was working in the pay scale of Rs.8000-275-13500/- and drawing basic pay of Rs.8,825/-. The respondent protected his last drawn basic pay i.e. Rs.8,825/-.

9. The petitioner made multiple representations and at the first instance, Vice Chancellor rejected his claim. The respondent constituted a Committee which opined in favour of the petitioner. The matter was put up before Syndicate which referred the matter back to the Committee.

The matter was again considered by a Committee which opined in favour of the petitioner. The opinion was sought from Legal Retainer who also supported cause of the petitioner.

A Co-ordinate Bench of this Court in ***Dr. Latika Sharma (supra)*** has adverted to issue involved. The Court has categorically dealt with question of “applied through proper channel”. The Court considering object of applying through proper channel has held that benefit of past service cannot be denied if the candidate has directly applied, however, submitted relieving order. The relevant extracts of the judgment are:

“The fourth alternative argument that the petitioner has not pleaded that she had “applied through proper channel” at the time of her selection and appointment to the present University, and thus does not fulfill one of the requirements of Clause/para 8.3.0 (reproduced in para 9 here above) of the notification dated 24.12.1998 (Annexure P-8), therefore, not entitled to counting of her past service for placement in the Senior Scale/Grade, also cannot be accepted. It is not the case of the Respondent-University that the petitioner did not fulfill the requirement, if any, of “applying through proper channel”. The said term has not been statutorily or otherwise defined anywhere, however, in common parlance it is well understood to mean to apply through a hierarchical channel, so as to protect the interest of the previous Institution as also serve the interest of the applicant as well as the succeeding Institution. The previous Institution gets prior knowledge of the applicant employee seeking employment elsewhere, as also an opportunity to express its opinion on the employee, which may benefit the succeeding Institution and, perhaps, the employee. The fulfillment of the said condition in the normal course of events is directory and not mandatory in nature. The fact that the petitioner had submitted her

“relieving order” from her previous college, in terms of her appointment letter, before permitting to join the respondent-University indicates that there was nothing due or against the petitioner, and the respondent-University having accepted the same would, in the opinion of this Court, give rise to an inevitable inference that there is substantial compliance of the said condition. Thus the argument is rejected.”

10. The respondent has accepted aforecited judgment and implemented the same. As respondent has accepted the aforecited judgment, there is no reason to discriminate the petitioner who is similarly situated. The case of petitioner is squarely covered by said judgment. This is further evident from the fact that all the Committees of the respondent as well as Legal Retainer have considered said judgment and thereafter opined that benefit of past service should be extended to the petitioner.

11. The respondent has protected last drawn salary of the petitioner. By protecting last drawn salary, the respondent has accepted past service of the petitioner. Had past service not been counted, the petitioner must have received Rs.8,000/- as basic pay whereas he was allowed basic pay Rs.8,825/-. This demolishes case of the respondent. On one hand, the respondent has protected pay of the petitioner and on the other hand, rejected his claim of counting past service for selection grade.

12. The respondent is claiming that claim of petitioner is barred by limitation. Contention of respondent cannot be countenanced. The respondent itself sought opinion of Committees as well as Legal Retainer during 2020-2022. It shows that matter was always alive. The petitioner

is still working with respondent and cause of the petitioner is recurring, thus, contention of respondent deserves to be rejected and accordingly rejected.

13. The respondent has expressed apprehension that petitioner may claim seniority in case his past service is counted. The petitioner during the course of arguments clarified that there is no dispute with respect to seniority and in any case, he will not claim seniority on the basis of past service, thus, apprehension of respondent with respect to seniority stands allayed.

14. In the wake of above discussion and findings, the instant petition deserves to be allowed and accordingly ***allowed***.

It is hereby made clear that increment of the petitioner shall continue to be determined from the date as determined earlier. The petitioner shall be entitled to all other consequential benefits. The arrears, if any, if released within three months from today shall not carry interest failing which respondent shall be liable to pay interest @ 7.5% from the expiry of said period.

15. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

25.07.2025
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No