

2026:PHHC:056809



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-11323-2014 (O&M)

Date of decision: April 06, 2026

ASHA PARIK

...Petitioner

Versus

GURU JAMBHESHWAR UNIVERSITY, HISAR AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Dr. Pankaj Nanhera, Senior Advocate with
Mr. Nitin Verma, Advocate,
Mr. Jasbir Singh Bazzad, Advocate and
Mr. Anurag Mor, Advocate
for the petitioner.

Mr. Puneet Gupta, Advocate and
Mr. Ravindra Singh, Advocate
for the respondents-University.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed seeking a writ of *mandamus* directing the respondents to count the petitioner's service on the post of Laboratory Attendant from 27.12.1995 to 12.01.2012, for the purpose of service and financial benefits, including retiral benefits.

2. Briefly, the facts of the case are, the petitioner was appointed as Laboratory Attendant on daily wages for eighty-nine days vide letter dated 27.12.1995, Annexure P-1. In continuity, she was appointed as such on contractual basis for eighty-nine days with effect from 26.03.1996, vide letter dated 21.03.1996, Annexure P-2. Later, she was retrenched from service and a reference was made to the Labour Court which was answered

in her favour vide award dated 11.08.1999, Annexure P-3, passed by Labour Court-cum-Industrial Tribunal, Hisar, holding her entitled to reinstatement with full back wages, continuity in service and all other consequential service benefits. She, accordingly, rejoined as contractual Laboratory Attendant on 05.10.1999.

2.1 The award was challenged by the University before this Court by filing a petition, CWP-1675-2000. The petitioner also approached this Court by filing a petition, CWP-11304-2009 seeking a direction to the respondents to regularise her services as she had already completed twelve and a half years in service. In the meanwhile, the University advertised regular posts of Laboratory Attendant. The petitioner applied for it, and following the due process, she was selected for the post and offered appointment on regular pay scale vide letter dated 12.01.2012. In terms therewith, she had to be on probation of one year and was entitled to Provident Fund, leave encashment, gratuity and travelling allowance, according to the provisions in force in the University. The offer was accepted and she joined service as regular Laboratory Attendant, as a fresh appointee. In this view of the matter, both the aforementioned writ petitions were dismissed with liberty to the petitioner to make representation for counting her previous service for pension etc. Relevant part of the judgment reads as under:

During the course of hearing, it has been pointed out that during the pendency of writ petition (CWP No. 1675 of 2000) the workman has been reinstated and she has also been paid all the backwages. It has further transpired that after filing of CWP

No. 11304 of 2009 the workman herself had applied for appointment on the regular post of Lab Attendant against advertisement made by the University and in that fresh process, she was selected and has been appointed as such afresh.

Learned counsel for University has placed on record the appointment letter dated 12.1.2012 as well as the joining report dated 13.1.2012. Counsel for the University (Management) submitted that when the workman herself applied against a fresh advertisement and got the appointment on the regular post and joined also, her claim for regularization does not survive. I find force in the submissions. The counsel for the workman could not controvert this factual and legal position. However, learned counsel has argued that the workman be permitted to make a representation to the University (Management) for counting her previous service for the purpose of pension etc.

In view of this factual and legal position, both the petitions are dismissed with liberty to the workman to make a representation to the Management for counting her adhoc previous service for the purpose of pension etc.

2.2 The petitioner accordingly made a representation to the University vide letter dated 22.11.2013, Annexure P-5, for counting her service as Laboratory Attendant from 27.12.1995 for all service and retiral benefits. The representation was not accepted, and the petitioner approached this Court by filing the instant petition. During pendency of the petition, she has retired from service on 30.04.2023.

3. In this factual background, learned senior counsel for the petitioner contended that had the petitioner continued in service on contractual basis, she would have been regularised in terms of the applicable

policies and her service would also have been counted for retiral benefits. The same benefit cannot be denied to her now only because she has been given regular appointment on the same post. In support of the contentions, he referred to the Supreme Court judgment in *V. Sukumaran v. State of Kerala and another*, 2020 (8) SCC 106, wherein the appellant was held entitled to counting of service rendered as casual worker prior to regularisation, for granting pensionary benefits. He has also referred to a Division Bench judgment dated 23.09.2022, rendered in CWP-13057-2018 titled *Harbhajan Singh v. The Vice Chancellor, Punjabi University, Patiala and another*, wherein this Court directed the University to count *ad hoc* service rendered by the petitioner therein prior to his appointment on regular basis pursuant to a fresh selection. The Special Leave to Petition (SLP) against the judgment has also been dismissed by the Supreme Court vide order dated 05.03.2024.

4. *Per contra*, learned counsel for the University contended that the petitioner was never regularised in service, and therefore she cannot claim that her previous service should be counted for retiral benefits. It is a case of fresh appointment against a duly advertised post. At the time of appointment on 12.01.2012, the University employees were governed by the New Pension Scheme (NPS), and the petitioner cannot claim any benefit which is not admissible under the Scheme. The issue whether an employee can claim benefit of previous service after fresh appointment on a substantive post, has already been considered and decided by a Division Bench of this Hon'ble Court vide judgment dated 11.07.2018, rendered in

CWP-16478-2015 titled *The Home Secretary, Chandigarh Administration, Chandigarh and others v. Central Administrative Tribunal, Chandigarh Bench and another.*

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

6. As apparent on record, the petitioner rendered service on daily wages and contractual basis in the University as Laboratory Attendant from 27.12.1995 till 12.01.2012. Pursuant to a fresh selection, she was offered regular appointment on a substantive post of Laboratory Attendant vide letter dated 12.01.2012, which was accepted by her by joining service the next day. The University employees at that time were governed under the New Pension Scheme. In these facts, the petitioner's claim for regularisation was rejected by this Court vide order dated 04.10.2013, while deciding her petition for the purpose. Once she has accepted a fresh appointment, her entitlement to service as well as retiral benefits is to be determined on the terms and conditions of that appointment. In terms therewith, she is entitled to retiral benefits under the New Pension Scheme, which concededly has no concept of counting previous service for retiral/pensionary benefits. Accordingly, there is no basis for the petitioner's claim. This issue has already been considered in *The Home Secretary, Chandigarh Administration* case *ibid.* on similar facts, holding that after accepting fresh appointment on a substantive post following regular selection, the employee cannot claim entitlement to be covered under the Old Pension Scheme. The relevant paragraph of the judgment reads as under:

11. In the case in hand, admittedly, respondent No.2 was appointed on contractual basis for a period of 89 days initially. After the expiry of the period of contractual appointment, his services were dispensed with. However, under the judicial order, the services were allowed to be continued till regular appointments were made. It is undisputed that the advertisement for regular appointments on the posts of bus drivers was issued on 23.01.2003 and respondent No.2 was successful in the said selection proceedings. Thus, it was not a case of regularization but of a fresh selection and appointment. Prior to being selected, respondent No.2 was neither a work charge employee nor a daily wage employee but the nature of his employment was contractual for a fixed period which though continued under a judicial order but mere continuance under a judicial order will not change the nature of his employment and it will continue to remain contractual.

12 to 15. xxx xxx xxx

16. From the above discussion, we have come to the conclusion that since respondent No.2 was employed on contractual basis for a fixed period and even though the services were continued under a judicial order and thereafter he faced fresh selection proceedings for a substantive post and it was not a case of regularization of services, the services rendered prior to regular selection and appointment on a substantive post would not entitle him to be covered under the old pension scheme and thus the impugned judgment passed by the Tribunal suffers from a patent error of law and is not liable to be sustained and accordingly hereby stands quashed.

6.1. Further, the judgment in *V. Sukumaran* case (*supra*) is on different facts as the appellant therein had worked in different capacities in two different Departments from time to time, before being regularised on

18.09.1989. He attained the age of superannuation on 31.12.2008 and was given the due service benefits. In these circumstances, the Court held that the pensionary provisions should be given liberal construction as a social welfare measure, and the service rendered by the appellant as casual worker should be counted for pensionary benefits as he would have been entitled to counting the same had he continued as such without undergoing a system of recruitment for regularisation. The petitioner in the instant case, however, has not been regularised in service and has been selected pursuant to a fresh appointment.

6.2. In *Harbhajan Singh* case (*supra*), though the petitioner had been appointed pursuant to a fresh selection and this Court directed counting of his *ad hoc* service rendered prior thereto for the purpose of pensionary benefits, he admittedly was a member of the Old Pension Scheme as his fresh appointment on regular basis was on 31.08.2004. In the instant case, however, the petitioner has been appointed at the time the University employees were covered under the New Pension Scheme.

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

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

April 06, 2026

Jaspreet Kaur

(TRIBHUVAN DAHIYA)

JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No