IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

216 **CWP-8766-2016 (O&M)**
Decided on :06.04.2026

MONIKA

...Petitioner

Versus

UNION OF INDIA AND ORS . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

PRESENT: Mr. J. R. Syal, Advocate for the petitioner.

Mr. Lajwant S. Virk, Additional Standing counsel for the respondent-UOI.

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HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 05.04.2016 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (herein after referred to as "the Tribunal") as well as the memo dated 19.03.2015 (Annexure A-7 to the O. A.) by which, the request of the petitioner to count the service rendered in a private aided institution namely, Vedic Girls High School, Manimajra, Chandigarh for the period from 14.11.2002 to 04.12.2009 as qualifying service for computing the pensionary benefits including pay fixation etc was cleared, has been dismissed.

2. Certain facts needs to be noticed for the correct appreciation of the issue in hand.

3. On 07.11.2002, the petitioner was appointed as an ETT Teacher in Vedic Girls High School, Manimajra, U.T. Chandigarh (an aided school receiving grant-in-aid from the Chandigarh Administration), in the pay scale of Rs. 4550–7220/-. While working on the said post, the petitioner sought issuance of a 'No Objection Certificate' form the headmistress, Vedic Girls High School to enable her to compete for the regular post of JBT or TGT

(Science) Teacher in U.T. Chandigarh. Upon grant of the said 'No Objection Certificate', the petitioner applied for the said posts. Thereafter, she was selected and appointed as a regular ETT Teacher vide order dated 30.11.2009 and was posted at Government Model Primary School, Village Palsora, U.T. Chandigarh.

4. In order to join the regular post at Government Primary School, Village Palsora, U.T. Chandigarh, the petitioner was relieved by the aided institution, i.e., Vedic Girls High School, Manimajra, U.T. Chandigarh. Having no break in service, the petitioner immediately joined the said government post in the Government Primary School, Village Palsora, U.T. Chandigarh.

5. While serving under the Chandigarh Administration, the petitioner submitted an application to the Headmistress, Government High School, Sector 54, Chandigarh, requesting that her service rendered in the said aided institution, i.e., Vedic Girls High School, Manimajra, U.T. Chandigarh, from 14.11.2002 to 04.12.2009, be treated as qualifying service for the purpose of computing pensionary benefits.

6. The said request of the petitioner was declined by the Director Public Instructions (S), Chandigarh Administration, vide order dated 19.03.2015, as the same is not covered under Rule 19 of Rates of Gratuity and Pension of Triple Benefit Scheme, which led to the filing of Original Application No. 060/01033/2015 before the Tribunal.

7. The Tribunal, vide order dated 05.04.2016, upheld the aforesaid order dated 19.03.2015, so as to deny the benefit of counting the service

rendered by the petitioner in the aided institution as qualifying service for computing pensionary benefits.

8. Learned counsel for the petitioner argues that once the petitioner was selected on the regular post after due consideration of all candidates, and her appointment in the aided institution, i.e., Vedic Girls High School, Manimajra, U.T. Chandigarh, was duly approved by the Chandigarh Administration, hence, the service rendered by her from 14.11.2002 to 04.12.2009 ought to be treated as qualifying service for pensionary benefits.

9. Learned counsel for the petitioner further submits that, as per settled principles of law, the service rendered by an employee in an aided institution is liable to be treated as qualifying service, in case such employee subsequently joins a government post on a regular basis.

10. Per contra, learned counsel for the respondent-U.T. Chandigarh submits that though, the factual narration given qua the service rendered by the petitioner is not disputed but the benefit of counting such service for pensionary benefits can be extended only if the service rendered in the aided institution is more than ten years. Learned counsel for the respondent submits that in such cases where an employee has rendered more than 10 years of service in an aided institution, it is only then that his/her service is to be treated as qualifying service for pensionary benefits upon subsequent appointment to a government post for computing the pensionary benefits.

11. Learned counsel for the respondents further submits that since the petitioner has rendered less than ten years of service in the aided institution, i.e., Vedic Girls High School, Manimajra, U.T. Chandigarh, she is

not entitled to the benefit of counting the said service as qualifying service for pensionary benefits. In support of his contentions, reliance is placed on the Union Territories Government Aided Schools Teachers Contributory Provident Fund-cum-Insurance-cum-Pension Rules, 1965 (hereinafter referred to as the "1965 Rules").

12. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

13 The only reason given by the respondents–U.T. Chandigarh to deny the petitioner's claim is that, as per 1965 rules governing the grant of pensionary benefits to employees of aided schools/institutions, a minimum of ten years of service is required for the purpose of entitlement to pension. In the absence of such qualifying service, even upon subsequent appointment in a government institution, the earlier service rendered in an aided school cannot be counted as qualifying service for computing the pensionary benefits.

14. The 1965 Rule, which is being brought into operation to deny the benefit to the petitioner is as under:-

> *"(ii) Pension: (a) A teacher shall be eligible for pension if he has rendered a total qualifying service of 10 years or more, and discharged or retired as per rules and orders."*

15. A bare perusal of the above would show that it is only where a Teacher has rendered 10 years service in an aided institution, he/she will be entitled to the grant of pension even while working in the aided institution. Nothing has been mentioned therein that any service less than ten years

rendered in an aided institution is not to be taken as a qualifying service keeping in view the subsequent regular appointment with the U.T .Chandigarh, hence, the Rules which is brought into operation are being misread as, the only prayer of the petitioner is that the service rendered by her in the aided institution be treated as qualifying service for the purpose of computing the pensionary benefits after the period when the petitioner superannuates from the services of U.T .Chandigarh in view of her appointment made in the year 2009.

16. Hence, the respondent- U.T. Chandigarh as well as the Tribunal has misread the Rule in question to deny the benefits.

17. Further, the law on the said issue is well settled.

18. In the case of ***Vijay Singh versus State of Haryana and others, 2009 (4) SCT 33,*** decided on 22.07.2009 wherein, it has been held that the service rendered by an employee/teacher in Government aided privately managed schools is to be taken as a qualifying service upon the resignation from the said post and after joining the government/regular service. The relevant paragraph is as under:-

> *“"8. It is, thus, to be seen whether this service now can be excluded for the purpose of grant of pension. If the petitioner had continued to serve on an aided post in a private school, he would have been entitled to count his service rendered therein for the purpose of pension and other retiral benefits. Would that service be lost to him for the purpose of pension be-cause he has subsequently gone on to join a Government job, which is again a pensionable one? If the result is allowed to operate in this manner, it will be unfair, inequitable and harsh. The ratio of law as laid down in the case of Harnandan, Singh, Charan Singh*

and Chander Sain (supra) in this background would apply to the facts of the present case. Similar view has clearly been taken by the Division Bench of Rajasthan High Court in the case of Jawahar Lal Sharma Supra. In fact, the Division Bench of this Court in Charan Singh's case (supra) has observed that service rendered by a teacher in private school receiving aid is made pensionable and as such this service cannot be ignored for grant of pension. The same is the situation here. Accordingly, I am of the view that the petitioner has made out a case for counting his service rendered on aided post in a private school for the purpose of pension and retiral benefits." "

19. The similar view has been take in the case o***f Sukhdev Singh and others versus State of Punjab and others (CWP No. 14238 of 1991), decided on 10.03.2010. The relevant paragaph of the said judgment is as under:-***

"9. Rule 3.16 of the CSR provides that 'service' of a Government Employee does not qualify for pension unless he is appointed and his duties and pay are regulated by the Government or under the conditions determined by the Government. Note-I thereto excludes certain services including of a Municipality or the Grant- in-Aid Schools and Institutions, for the purposes of pension, Rule 3.17 contemplates that an employee holding substantively a permanent post on the date of his retirement, would be entitled to pension after including the 'temporary' or 'officiating' service rendered by him, towards 'qualifying service', except such temporary or officiating services in non-pensionable establishment or when it is paid from the contingencies. Initially, the period of service rendered in the work-charged establishment was also excluded for the purpose of pension but the provision to that effect was struck down by a Full Bench of this Court in Kesar Chand v. State of Punjab and others, (AIR 1988, Punjab & Haryana, 265).

> 10. Rule 3.17A provides that all services rendered on establishment, interrupted or continuous, shall count as qualifying service except in the cases mentioned below, including the service rendered in work-charged establishment or paid from contingencies. Rule 3.30 describes the 'service' which satisfies the conditions for its inclusion as a 'qualifying service' and it is apparent from Rule 3.31 that those services which are paid from the Government Revenue qualify for pension. To be more explicit, the service not paid from the Government Revenue or paid from the funds in respect to which the Government holds the position of a Trustee or paid by fees levied by law or under the authority of the Government or by Commission or by the grant in accordance with law or custom of a tenure in land, or of any source of income or right to collect money or paid from local funds, does not qualify for pension. Rules 3.16, 3.17, 3.17A, 3.30 and 3.31 (relevant extracts only) read as follows :-
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> "3.16. (a) The service of a Government employee does not qualify unless he is appointed and his duties and pay are regulated by the Government or under conditions determined by the Government.
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> XX Note 1: The following are examples of Government employees excluded from pension by this rule:-
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> (1) Employees of a Municipality;
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> (2) Employees of grant-in-aid schools and in-stitutions; (3) Subordinates appointed by Treasurers on their own responsibility;
>
> (4) Service on a establishment paid from a Contract Establishment Allowance, with the detailed distribution of which the Government does not interfere, whether such contract allowance is a fixed amount or consists of fees. (5) Service on an establishment paid from the Household Allowance of the Governor."

'3.17. If an employee was holding substantively a permanent post on the date of his retirement, his temporary or officiating service under the State Government followed without

> interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of :-
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> i) period of temporary or officiating service in non pensionable establishment;
>
> ii) periods of service in work-charged establishment and
>
> (ii) periods of service paid from contingencies"

20. Thereafter, again in ***CWP No. 12432 of 2004 tilted as Charan Singh versus State of Punjab and others, decided on 11.07.2006,*** it was held that the service rendered in an aided institution, followed by service with Government institutions, is to be counted cumulatively. In other words, the total length of service rendered by an employee in both the institutions is to be treated as qualifying service for the purpose of computing pensionary benefits. The said judgment in ***Charan Singh's case (supra)*** was upheld by the Hon'ble Supreme Court by dismissed the SLP (C) No. 3209 of 2007.

21. Subsequently, the similar view has been taken again, ***in CWP No. 7520 of 2008 titled as J .K. Sharma, and another versus the State of Punjab and others, decided on 13.10.2009,*** .

22. Keeping in view the judgments stated hereinabove, Once the consistent view of the Court is that service rendered by an employee in an aided institution prior to appointment on a regular post with the Government is to be treated as qualifying service, hence, denial of such benefits by the respondents to the petitioner is incorrect.

23. It may be noticed that a settled principle of law must be applied uniformly, without forcing the similarly situated employees to seek the same relief.

24. Learned counsel for the respondents has not been able to dispute the said settled principle of law.

25. Keeping in view the totality of the facts and circumstances of the present case, wherein it is a conceded position that the petitioner joined a privately managed Government-aided institution in 14.11.2002 after being selected through an open selection process, and that such appointment was duly approved by the Chandigarh Administration, and thereafter, upon obtaining a 'No Objection Certificate' from the said institution, she competed for a regular post in U.T. Chandigarh, where she got selected and there is no gap between the two services, the denial of pensionary benefits after counting the period of service rendered with the privately managed Government aided institution from 14.11.2002 till 04.12.2009 is incorrect and contrary to the settled principle of law.

26. Hence, the order dated 05.04.2016 (Annexure P-1) passed by Tribunal, memo dated 19.03.2015 (Annexure A-7) as well as the stand taken by the respondents before the authorities concerned are perverse and contrary to the settled principle of law. Accordingly,. the orders dated 05.04.2016 (Annexure P-1) passed by Tribunal as well as the memo dated 19.03.2015 (Annexure A-7 to the O. A.) are hereby set-aside.

27. As the petitioner is still in service, the service rendered in the privately managed Government-aided institution from 14.11.2002 to 04.12.2009 shall be treated as valid qualifying service at the time of her retirement for the purpose of computing pensionary benefits.

28. It may be further noticed that in case any contribution for the

said period has not been transferred by the earlier aided institution i.e., Vedic Girls High School, Manimajra, Chandigarh, to the Union Territory, Chandigarh, the same shall be done at the earliest, failing which, it will be the responsibility of the petitioner to deposit the required contribution for the said period along with statutory interest by way of an application with the U.T., Chandigarh.

29. The writ petition is allowed in above terms.

30. Pending civil miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

06.04.2026
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Whether speaking/reasoned: YES
Whether Reportable: YES