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

224

**LPA-1053-2022 (O&M)
Date of decision: 30.04.2026**

NISHAN SINGH

...APPELLANT

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI
HON'BLE MRS. JUSTICE AMARJOT BHATTI**

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

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Aditya Narayan Arya Garg, Advocate
for respondents No. 2 and 3.

JASGURPREET SINGH PURI, J. (Oral)

1. The present intra-court appeal has been filed by the appellant assailing the order passed by learned Single Judge in CWP-9640-2022, decided on 10.05.2022, whereby writ petition filed by appellant was dismissed.

2. Learned counsel appearing on behalf of appellant submitted that appellant was working in respondent No. 3-college, namely, Ramgarhia Educational Institutions, District Kapurthala as Laboratory Assistant. It is a purely private institution and the post on which he was working was a regular post. He has submitted that he attained the age of 58 years on 31.05.2020 and was retired on the aforesaid date, but he was entitled for being retired at the age of 60 years which he was to attain on

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31.05.2022.

3. He has submitted that now although he has crossed the aforesaid age of 60 years and he has not worked on the post from 31.05.2020 because he already stands retired at the age of 58 years and although he is not entitled for the grant of any salary for the aforesaid period but atleast his retiral benefits can be fixed on attaining the age of 60 years as a notional fixation and consequential benefits may be given. He also submitted that the appellant has till date not been paid any retiral benefits whatsoever even assumingly for the sake of arguments he was to retire at the age of 58 years i.e. on 31.05.2020 for the reasons best known to the respondents.

4. He further submitted that when he assailed action of respondents by filing petition before the learned Educational Tribunal, Punjab, SAS Nagar (Mohali) before his retirement, then learned Educational Tribunal on 08.02.2022 dismissed the petition, which was assailed by filing writ petition which was also dismissed by learned Single Judge. While referring to the orders passed by learned Educational Tribunal, he submitted that although the appellant before learned Educational Tribunal had placed reliance upon Clause 94 of Calendar of Guru Nanak Dev University and respondent-college where he was working which was affiliated to aforesaid University but the aforesaid clause was not relevant for deciding the controversy because that was pertaining to University employees and not to affiliated colleges. But still learned Tribunal correctly referred to Clause 38 but has erroneously interpreted the same. He submitted that aforesaid grounds were also taken before the learned Single Judge but learned Single Judge has dismissed

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the writ petition on the ground that respondents No. 2 is a purely private institution and is governed by its own rules and regulations and they have so decided by way of Annexure P-5 dated 13.06.2019 that all the unaided employees/staff working in Colleges draw salary in grade from funds, shall be retired on attaining the age of 58 years and submitted that aforesaid Annexure P-5 was only an order passed by the President of the respondent-Educational Council and cannot go contrary to the Calendar of University with which respondent-college was affiliated, since provisions made in Calendar are enforceable in law.

5. Learned counsel while referring to the relevant provisions of Calendar which are contained in ordinances of University referred to Volume IV of Calendar of Guru Nanak Dev University, Amritsar in this regard. He referred to Clause (iv) of Chapter-IV which pertains to service and conduct of non-teaching staff in non-govt. colleges, wherein the categories of employees have been bifurcated. As per aforesaid categorization of employees of non-teaching staff in non-govt. colleges, appellant was falling in clause 1(ii) being a Laboratory Assistant and learned counsel thereafter referred to Clause 38 of aforesaid ordinance which so provides that all whole-time paid members, except persons appointed on contract basis and employees falling under categories mentioned in Ordinance 1 (i) & (ii) shall retire on reaching the age of 60 years and submitted that as per aforesaid clause 38, the age of retirement would be 60 years because it so specifically provides that employees who are falling in the categories mentioned in Ordinance 1 (i) & (ii) shall retire at the age of 60 years and therefore, appellant ought to have retired at the age of 60 years and not 58 years.

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6. He also submitted that learned Single Judge has referred to Annexure P-5 which was only an order issued by President of Educational Council which cannot go beyond the provisions of University Calendar which is in the form of ordinances and is enforceable by law. Therefore, the date of retirement of appellant is fixed at 60 years and notional benefits may be granted to him by fixing of last pay drawn at the age of 60 years and thereafter to grant all retiral benefits to the appellant.

7. On the other hand, learned counsel appearing on behalf of the respondent-college has submitted that plea which has been taken by appellant is misconceived because of two reasons:-

Firstly, that college is a purely private college and the post on which appellant was working was non-aided post and it is the College/Educational Trust who has to take a decision as to what should be the terms and conditions governing its employees, and in terms of order dated 13.06.2019 (Annexure P-5) aforesaid decision was taken which is so reflected in aforesaid order conveyed in the form of circular by the President of Council which states that employees will retire at the age of 58 years. The appellant attained the age of 58 years on 31.05.2020 which was after the aforesaid issuance of circular and therefore, aforesaid circular which was a conscious decision taken by the respondent-college which was binding upon the appellant.

Secondly, he submits that reliance was placed by learned counsel for appellant on the Calendar of Guru Nanak Dev University, Amritsar in Clause (iv) of Chapter-IV read with Clause 38 pertaining to age of retirement and perusal of the same would also show that rather as per aforesaid clause, even if assumingly for the sake of arguments the

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University Calendar is applicable to the college, still as per aforesaid clause appellant would retire at the age of 58 years and not at the age of 60 years. He also referred to sub clause (1) of clause 38 which pertains to age of retirement and submits that appellant falls in the category of 'excepted persons' as per aforesaid clause and appellant has misread the aforesaid clause. Whereas, learned Educational Tribunal has also interpreted the aforesaid clause to observe that appellant was falling in the definition of excepted category and therefore, his age of retirement would be 58 years and not 60 years and therefore, on this ground also there is no illegality or perversity in the orders which have been passed by learned Educational Tribunal and learned Single Judge. Therefore, the appeal is liable to be dismissed.

8. We have heard learned counsel(s) for the parties.

9. Before delving into the issue with regard as to what would be the relevant rules applicable and what would be the age of appellant, it will be necessary to reproduce aforesaid regulations and decision taken by the respondent private college vide Annexure P-5, dated 13.06.2019 which is reproduced as under :-

“ CIRCULAR

It is hereby ordered that all the unaided employees/staff working in Colleges drawn salary pay in grade from funds, shall be retired on the attaining the age of 58 years.”

Clause (iv) of Chapter-IV of Calendar which pertains to the ordinances and services by which classification has been made with regards to different posts is reproduced as under:-



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“(iv) SERVICE AND CONDUCT OF NON-TEACHING STAFF IN NON-GOVT. COLLEGES

xxx xxx xxx

General Ordinances of Service :

1. Non-Teaching Staff in non-government affiliated colleges shall be divided under the following categories :-

(i) Ministerial Staff.

(ii) Lecture-Assistant, Laboratory Technician, Laboratory Assistant, Store-Keeper, Mistry/Electrician, Dispenser.

(iii) Daftries, Peons, Bearers, Chowkidars, Laboratory Bearers, Malis and other employees in the similar pay scales.

Appointments to the posts under category 1 (i & ii) shall be made after due advertisement.

xxx xxx xxx”

Ordinance 38 which was referred to by learned counsel for appellant pertaining to the age of retirement was reproduced as under :-

“ AGE OF RETIREMENT

38. (1) All whole-time paid members, except persons appointed on contract basis and employees falling under categories mentioned in Ordinance 1 (i) & (ii) shall retire on reaching the age of 60 years.

xxx xxx xxx”

10. Admittedly, appellant attained the age of 58 years on 31.05.2020 and attained the age of 60 years on 31.05.2022. Learned Educational Tribunal while dealing with aforesaid argument of appellant with regard to the application of the aforesaid ordinance had observed that even by virtue of aforesaid ordinances, appellant would not be entitled for retirement at the age of 60 years because the same would fall in excepted category. Learned Single Judge has observed that the respondent-college is a private college and has so decided vide Annexure P-5 as reproduced

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above that the age of retirement of all the employees would be 58 years.

11. It would therefore be necessary to analyze the aforesaid provisions of Ordinances which are contained in the Calendar of Guru Nanak Dev University for the purpose of understanding as to what is the effect of aforesaid two provisions reproduced above, assumingly, for the sake of arguments, the aforesaid Ordinances are applicable to respondent-college. The general ordinance of service by which classification has been made is pertaining to different categories and so far as present appellant is concerned, he was a Laboratory Assistant and he was also non-teaching staff in non-govt. affiliated college and on an unaided post. Therefore, he falls in Clause 1(ii) of Clause (iv) of Chapter-IV of Calendar of the University regarding which there is no dispute by any of learned counsels for the parties. The aforesaid clause too has also been referred in Ordinance 38 which is also reproduced as above. A perusal of Ordinance 38(1) would show that it so provides that all whole-time paid members, 'except' persons appointed on contract basis and employees falling under categories mentioned in Ordinance 1 (i) & (ii) shall retire on reaching the age of 60 years. Interpretation which was given by learned counsel for appellant was that the only exception which has been provided in Clause 38(1) was on contract basis, whereas, second part of aforesaid clause would not be an exception. However, it was the interpretation given by learned counsel for respondents No. 2 and 3-college that rather there are two exceptions so provided in Clause 38(1) and in clear words it so shows that these are the two exceptions and those who are not falling in those exceptions would retire at the age of 60 years.

12. After perusing the aforesaid clause, we are of the considered

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view that whenever a clause is to be read, then the doctrine of literal interpretation would be applied at the first instance which would mean that whatever is apparent in the normal English parlance, clause should be construed in the same manner. A bare reading of aforesaid Clause 38(1) clearly so provides that all the whole-time paid members accompanied with exception that persons appointed on contract basis with a conjunction of “and” employees falling under categories of Clause 1 (i) & (ii) shall retire at the age of 60 years. In other words, aforesaid would constitute two exceptions. First exception is employees on contract basis and second exception is employees falling under categories of Ordinance 1 (i) & (ii). Admittedly, the appellant falls in Ordinance 1 (i) & (ii) regarding which there is no dispute because he was a Laboratory Assistant and therefore, to the considered opinion of this Court, the appellant would fall in the aforesaid exception and therefore, as per Clause 38(1)(i), he would not retire at the age of 60 years.

13. In view of the aforesaid facts and circumstances, this Court is of the considered view that there is no merit in the present appeal. Consequently, the same is hereby dismissed.

14. At this stage, it was so submitted by learned counsel for the appellant that respondents No. 2 and 3-college have not even paid the retiral dues, even if assumingly he was to retire at the age of 58 years. It is, therefore, directed that respondents No. 2 and 3-college shall release all the retiral benefits to the appellant if not already paid as if he had retired at the age of 58 years after deducting the payment which has already been made, if any, within a period of two months from today along with interest @ 6% per annum from the date of retirement plus two

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months till the date of its actual payment.

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

(JASGURPREET SINGH PURI)
JUDGE

30.04.2026

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No