
(2003) 03 AHC CK 0130

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 48690 of 1999

Akeela Khatoon

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 13-03-2003

Acts Referred:

Citation : (2003) 03 AHC CK 0130

Hon'ble Judges : R.B.Misra, J

Final Decision : Allowed

Judgement

R.B. Misra, J.—In this writ petition the prayer has been made commanding the respondents to make the payment of the pensionary benefits after taking into consideration the services rendered in the past and to pay G.P.F., Gratuity and Group Insurance and arrears enhanced with interest is enclosed as (Annexures 1, 2, 3, 4, 5, 6 and 7) respectively in the writ petition.

2. Heard Sri L.K. Pathak, learned Counsel for the petitioner as well as Sri S.S. Sharma, Sri Raj Kumar, Miss Enakshi Sharma, learned Counsel for the State.

3. It appears that the petitioner was appointed as Asstt. Teacher on 4111956 and was promoted as Asstt. Teacher in Junior High School, on 191960 and was subsequently appointed Asstt. Teacher in Government Girls Intermediate College, Anwala Bareilly on 381971. The petitioner was sanctioned leave travelling allowance to the tune of 2,301 which was also not paid and the petitioner was retired on June 1997 after completing 40 years of service and the pensionary benefits have been allowed to the petitioner only for the period taken into consideration the service rendered from 3 81971 to 3061997 without consideration and without giving benefit of previous service i.e. 48 1956 to 211971 rendering in other educational institutions. The counter affidavit has been filed. The averments made in the writ petition in respect of the factual aspects has not been denied only it has been indicated that the T.A. has already been made and the subsequently second time no T.A. was paid for the same journey. Rejoinder affidavit has also been filed and endeavourance on the part of

the petitioner to controvert the contents of the counter affidavit and reiterated the contents of the writ petition.

4. The petitioner has placed reliance on 1997(1) LBESR 556 (All) ; 1997 (75) FLR (Sic) (Ramjee Das v. State of U.P. and others) in which on 20111996 this Court was pleased while allowing the Writ Petition No. 14395 of 1992 has decided that the pensionary benefits, after retirement to the writ petitioner as a permanent Principal of the College has to take into consideration even service of the post rendered as a clerk including the service rendered by him in a private institution in respect of taking length of service. The judgment of Ram Jee Das (supra) passed after relying the judgment dated 1491995 (Ram Janam Singh v. Dy. Director of Education and others, in Writ Petition No. 34579 of 1993) where this Court has held service even rendered has worked as a clerk in the private institution has to be added in the length of service and also the order dated 19 1995 in Writ Petition No. 34579 of 93 (Ram Raksh Pal v. State of U.P. and others) where this Court has held even in the service in the private institution has to be added for the purpose of pensionary benefits to the writ petitioner. Learned counsel for the petitioner has also placed reliance on the judgment dated 2092000 passed by this Court 2001(1) LBESR 925 (All)(LB) ; (2001) 3 UPLBEC 2046, Surendra Kumar Khanna v. State of U.P. and others, where for allocating the pensionary and other retiral benefits the past service of the writ petitioner for the some period as atheletic coach in Agra University and thereafter appointed as a sports teacher in U.P. Sports College and retired was to be considered and to be included in respect of commuting pension and retiral benefits, order denying of the earlier service rendered were arbitrary discriminatory and High Court has quashed such denial of pensionary benefits by adding service rendered in different capacity.

5. I have heard learned Counsel for the parties, I find that the petitioner had worked as Asstt. Teacher in Primary School and has worked as Asstt. Teacher in Junior High School and Asstt. Teacher in Government Girls Intermediate College and after completing 40 years of service she was retired and there was no complaint or inactive factor by virtue of pensionary benefits along with other benefits post retirement benefits are to be disallowed. The facts and circumstances of the petitioner's case are on better footing in comparison to the facts and circumstances rendered in the above cited case. Therefore, in the facts and circumstances the petitioner is to be given post retiral benefits after considering the past service rendered. As indicated above the petitioner cannot be claimed T.A. twice from the same journey made as indicated in the counter affidavit.

6. In view of the above the writ petition is allowed and the respondents are directed to consider the past service rendered in different capacity as indicated above and shall allow to give the benefit of service rendered from 4111956 to 281971 for the time of pensionary benefits along with arrears. However, no interest shall be allowed to the petitioner because the amount as arrears shall be

paid within six months from today and the pensionary benefits has to be paid forthwith to the petitioner payable in the month of May, 2003. The writ petition is allowed. No order as to costs.