

**(2012) 03 P&H CK 0113**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition No. 11459 of 2011 (O and M)

Rita Chadha, Retired Lecturer Physics, Bhagat Phool Singh  
Memorial Girls College, Kanya Gurukul

**APPELLANT**

**Vs**

State of Haryana and others

**RESPONDENT**

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**Date of Decision :** 05-03-2012

**Acts Referred:**

**Citation :** (2012) 03 P&H CK 0113

**Hon'ble Judges :** K. Kannan, J

**Bench :** Single Bench

**Final Decision :** Allowed

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**Judgement**

K. Kannan, J.—Written statement filed in Court on behalf of respondent No. 3 is taken on record.

2. The petitioner has grievance that her retiral benefits had not been given in spite of the fact that she has retired in February Civil Writ Petition No. 11459 of 2011 (O&M) -2 -2009 and they are held back for no justifiable reasons. The non-payment seems to be on account of the fact that during her service, she had applied for study leave for completion of her Ph.D. in the year 1995 and she was required to complete it within three years, but she did not complete the same. On her return from study leave, the respondents proceeded to treat the said period of absence as leave without pay and the pay, which she had drawn during the said period, was sought to be recovered. It appears that this recovery action has been challenged in a civil suit and the case is still pending before this Court in RSA No. 3070 of 2005. There appears to be yet another contentious issue, viz. of the scale of pay that she was entitled.

3. The Learned Counsel for the petitioner would contend that even if the issue of recovery has not been finally concluded in the Court proceedings, there is no justification for denying to the petitioner her entitlement to the selection grade and arrears of salary and the computation of the benefits which were granted

under the 5th and 6th Pay Commission in so far as they are relevant also for the computation of terminal benefits. I find that the reply has not been filed by respondents except respondent No. 3-University. The reply filed by the respondent No. 3 states no more than the fact of pendency of the proceedings relating to the recovery action for the period when the study leave was treated as without pay. I find no justification for withholding the entire terminal benefits when a due provision could be easily made for the matters which were pending adjudication before this Court as regards the particular grade which was applicable and the entitlement of refund of recoveries already made.

4. The respondents are directed to make a calculation of all the benefits, save the issues under the contest before this Court which is the culmination of the Civil Court proceedings and the same shall be released to the petitioner within a period of 8 weeks from the date of receipt of certified copy of this order. This amount ought to result in calculation of the admitted portion and the same be paid with interest at 7.5% from the date of her retirement till date of payment.

5. The writ petition is allowed on the above terms.