

(2012) 03 P&H CK 0462
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 17695 of 2011

Smt. Dropati Devi, Gram Sevika (retld.)	APPELLANT
Vs	
State of Haryana and Others	RESPONDENT

Date of Decision : 27-03-2012

Acts Referred:

Citation : (2012) 03 P&H CK 0462

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : K.L. Dhingra, for the Appellant; Pardeep Virk, Advocate for respondent Nos. 1 and 2, for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—The petitioner who had been a Craft Teacher in Panchayat Samiti, Shahabad under the Development and Panchayat Department, Haryana w.e.f. 30.3.1979 came through an intervention of an order from the High Court in CWP No. 5635 of 1985 that directed that the petitioner shall be regularized from 4.5.1983. An order was passed pursuant to the High Court direction on 4.3.1996 giving her the regular service and appointing her as a Gram Sevika in the very same department. She continued as Gram Sevika from 3.4.1995 to 30.4.2012 when she retired. To her claim for pension by treating the period of service from 30.3.1979 when she entered the service of Panchayat Samiti the response was that when the Joint Secretary Development found the petitioner eligible for appointment, an undertaking was taken from her that she would not claim benefits of her previous service of Craft teacher. If the petitioner had been made regular from a particular date through an order and continued in the same department and assigned to a different duty and a different designation, the fact that an undertaking was received cannot be taken to estop the person from contending that the service she has put in the same department in another capacity should be excluded. The issue was answered in a slightly different situation by a Bench of this Court in Om Pati Versus State of Haryana 2007 1 RSJ

582. The Bench was considering the issue of counting of service in a Panchayat Samiti for eligibility for family pension for the person that was absorbed in the said service. The Court held that the service rendered in Panchayat Samiti which in terms of Government policy also allowed for absorption in the State service would make the person eligible to count such service in Panchayat Samiti as aggregating to pensionable service. I would apply the same principle and hold that notwithstanding the undertaking given by the petitioner that she would not claim benefit of past service it cannot operate to estop her. The petitioner shall be granted the service period of Craft teacher in the Panchayat Samiti as part of pensionable service and the pension shall be worked on that basis and the arrears be released to her within a period of 12 weeks.

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