

(2012) 05 P&H CK 0109
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 7461 of 2011

Suram Singh

APPELLANT

Vs

State of Haryana etc.

RESPONDENT

Date of Decision : 28-05-2012

Acts Referred:

Citation : (2012) 05 P&H CK 0109

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Anurag Goyal, for the Appellant; Sanjiv Gupta, Advocate, Respondent No. 3, for the Respondent

Final Decision : Allowed

Judgement

Augustine George Masih, J.—Petitioner has filed this writ petition claiming the counting of service which he has rendered on the post of Drawing Teacher in Guru Nanak Senior Secondary School, Kurukshetra, which is on an aided post where the institute is aided to the extent of 75% by the Government of Haryana. Petitioner contends that he was appointed as a Drawing Teacher on a sanctioned aided post at Guru Nanak Senior Secondary School, Kurukshetra on 08.11.1993 and continued as such till 13.07.1998 when he resigned for taking up a Government job where he was selected as a Drawing Teacher. He joined as a Drawing Teacher at Government High School, Bhatedi, District Kurukshetra on 14.07.1998. He contends that in the light of the judgment passed by this Court in CWP No. 16502 of 2005 titled as Sushila Devi vs. State of Haryana and others, decided on 26.09.2005 (Annexure P-8) as also a judgment passed by this Court in CWP No. 4377 of 2007 titled as Ramesh Sharma vs. State of Haryana and others, decided on 26.08.2009 (Annexure P-7), the said benefit has not been granted to the petitioner by the respondents. He, accordingly, prays that the present writ petition may be allowed by granting him the benefit of the service rendered by him in a private aided school on an aided post for retiral benefits. Notice of the writ petition was issued to the respondents. An objection has been

raised by the respondents that the petitioner has straightway approached this Court without filing a representation to the respondents for grant of the said relief. It has further been stated that the Government of Haryana has generalized the claim as has been made by the petitioner vide its order dated 09.02.2011 (Annexure R-1). The claim, as made by the petitioner, is not sustainable in the light of the fact that the petitioner has resigned from the aided post on 13.07.1998 prior to his joining the Government service and as per Rule 4.19 (b) of the Punjab Civil Service Rules Volume-II, the petitioner is not entitled to counting of the said period for the purpose of pensionary benefits. Reliance has also been placed on Rule 3.12 of the Punjab Civil Service Rules, Volume-II, which defines service qualifying for pension, to contend that the petitioner is not entitled to the counting of the service, which has been rendered by the petitioner on an aided post prior to his joining the Government service.

2. Counsel for the parties have argued their cases on the basis of the pleadings. An additional submission has been made by the counsel for the petitioner that the claim of the petitioner is covered by a judgment of this Court passed in CWP No. 17442 of 2009 titled as Yogender Kumar Tyagi vs. State of Haryana, decided on 24.05.2012.

3. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

4. The first objection, which has been raised by the counsel for the respondents, is with regard to the maintainability of the present writ petition on the ground that the petitioner has not filed the representation to the respondents claiming the benefit as has been made by him in the present writ petition although he is claiming a writ of mandamus. This contention of the counsel for the respondents could have been accepted had the respondents not taken an objection with regard to the claim of the petitioner, which has been made by him in the present writ petition. The ground denying him the benefit is that he had resigned on 13.07.1998 from the aided post prior to his joining the Government service on 14.07.1998. This stand is based upon Rule 4.19 (a) of the Punjab Civil Service Rules and Rule 3.12 of the Punjab Civil Service Rules. These very contentions and this very objection with regard to the claim of a similarly placed employee was considered by this Court while deciding CWP No. 17442 of 2009 titled as Yogender Kumar Tyagi vs. State of Haryana, decided on 24.05.2012. The claim of the petitioner is covered on all fours by this judgment.

5. In view of the above, the present writ petition is allowed. Petitioner is held entitled to the counting of the service rendered by him with the Guru Nanak Senior Secondary School, Kurukshetra as a Drawing Teacher on an aided post from 08.11.1993 to 13.07.1998 for grant of pensionary benefits.