
(2015) 07 P&H CK 0106
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9137 of 2013

Uma Devi and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 24-07-2015

Acts Referred:

Citation : (2015) 3 SCT 553

Hon'ble Judges : Amit Rawal, J

Bench : Single Bench

Advocate : Vikas Chatrath and Ankit Joshi, for the Appellant; Hitesh Pandit, A.A.G, Advocates for the Respondent

Final Decision : Allowed

Judgement

Amit Rawal, J—The petitioners, 51 in numbers, have knocked the door of this Court for issuance of a writ of mandamus directing the respondents to treat the services rendered by them in Government Aided Schools countable towards the pension, pensionary benefits and as well as other consequential benefits in view of the law laid down in Civil Writ Petition No. 6586 of 2008 (Shyam Kumar v. State of Haryana and others), decided on 24.7.2009 (Annexure P-6) and upheld in the Letters Patent Appeal. Mr. Vikas Chatrath, learned counsel appearing on behalf of the petitioners submits that the petitioners initially joined the Aided Schools, the details of which have been given in paragraph 2 of the writ petition (at pages 14 to 17 of the paper book) and on revision of the pay scales of the Teachers working in the Government Schools, the pay scales of the Teachers working in the Aided Schools were also revised on the same pattern. He further submits that the Government introduced the Haryana Civil Services (Assured Career Progression) Rules, 1998 vide notification dated 7.1.1998, which came into effect w.e.f. 1.1.1996 and the objective of the said rules was to provide at least two functional upgradation in the scales on completion of 10/20 years of service. He further submits that the aforementioned rules were applicable to the employees who are under the administrative control of the Government of

Haryana and even the employees of the aided schools were also given the parity/ treated at par with the employees working on the same posts in Government Schools and the said benefit was granted vide notification dated 22.10.2003 (Annexure P- 3), however, in different years, they were selected and appointed in Government Schools.

2. Learned counsel for the petitioners also submits that similar controversy had arisen in Shyam Kumar's case (supra), whereby the Teachers working in the Government Aided Schools had sought the relief of grant of ACP and as well as to consider the service rendered in the Government Aided Schools towards the grant of ACP and as well as for the purpose of pension and retiral benefits.

3. Mr. Hitesh Pandit, learned Additional Advocate General, Haryana appearing on behalf of the State submits that the petitioners are not entitled to be considered for grant of relief sought in the present writ petition and, therefore, the service rendered by them in Government Aided Schools would not be counted towards the grant of ACP, incentive, pension, much less retiral benefits on the premise that the petitioners have not made contribution towards the C.P.F. while rendering the service in Government Aided Schools and, therefore, the record cannot be verified.

4. I have heard the learned counsel for the parties and appraised the paper book.

5. There is no dispute to the ratio decidendi culled out by the cognate bench of this Court in Shyam Kumar's case (supra) and the findings rendered in the aforementioned case have been upheld by the LPA Bench vide order dated 5.4.2010 passed in LPA No. 420 of 2010 (Annexure P-7) and by the Hon'ble Supreme Court vide order dated 21.4.2011 passed in Special Leave Petition (Civil) CC/18709 of 2010 (Annexure P-8).

6. There is no denial to the fact that the aforementioned order has also been implemented, which is evident from the perusal of order dated 31.10.2012 passed in COCP No. 1592 of 2011 (Shyam Kumar Sharma v. Surina Rajan, IAS and others), which reads thus:--

"Learned State counsel on instructions from Sh. Harminder Singh, Distt. Elementary Education Officer, Yamunanagar contends that the necessary benefits on account of ACP grade and other benefits shall be given to the petitioner positively within a period of two weeks from today.

In view of the categoric stand taken by the respondents, instant petition is disposed of and rule against the respondents is discharged. However, in the eventuality of the respondents not releasing the necessary benefits to the petitioner within the stipulated period, the petitioner shall be at liberty to revive the instant petition."

Thus, there leaves no manner of doubt in the mind of the Court to grant the relief of ACP, pension and pensionary benefits to the petitioners by treating the service rendered by them in the Government Aided Schools.

7. There is force in the argument raised by the learned State counsel inasmuch as that the State would not be able to release the benefits in the absence of the service record. In order to resolve the aforementioned difficulty, I deem it appropriate to issue the following directions:--

"(a) The respondents shall call upon the petitioners to furnish their exact service particulars in respect of the service rendered by them in the Government Aided Privately Managed Schools and such exercise should be done within a period of three months from the date of receipt of certified copy of this order and thereafter the petitioners shall furnish the same within 45 days;

(b) The respondents shall call upon the records of the Government Aided Privately Managed Schools and verify as to whether or not the petitioners have served in such private schools against the posts duly sanctioned;

(c) If some of the petitioners, who are in service, are found to be not entitled to the benefit of their previous service rendered in Government Aided Schools, the necessary speaking order to this effect shall be passed by the respondents and the relevant entry in this regard be made in their service record."

8. After verification of the aforementioned record, the respondents are directed to do the entire exercise as early as possible, preferably within a period of one year from the date of receipt of certified copy of this order. Any contribution made by the petitioners towards the C.P.F. while rendering the service for the purpose shall be refunded by them.

The writ petition is allowed in the aforementioned terms.