



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-18436-2017

Date of Decision: 11.07.2025

Rahul Omprakash VaishyaPetitioner(s)

Versus

Union of India and othersRespondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. H.S. Saini, Advocate,
for the petitioner.

Mr. Prateek Mahajan, Advocate,
and Mr. Daanish Mahajan, Advocate,
for respondent Nos.2 and 3.

Mr. Nikhil Sehrawat, Advocate,
for Mr. Ashwani Talwar, Advocate,
for respondent No.4.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking setting aside of orders dated 16.02.2016 and 19.09.2015 whereby his request for notional benefits has been declined.

2. The Union Public Service Commission (in short 'UPSC') vide Advertisement No.9 dated 11.05.2002 invited applications for the post of Lecturer in Punjab Engineering College, Chandigarh (in short 'PEC'). The name of petitioner was recommended by UPSC on 08.10.2004, however, he was not allowed to join because PEC was declared deemed university in July' 2004. He approached Central Administrative Tribunal (in short 'CAT') for the redressal of his grievance. The



Tribunal vide order dated 27.11.2006 directed the respondent to issue appointment letter to the petitioner after obtaining approval from Board of Governors. The respondents in compliance of aforesaid order issued appointment letter dated 28.05.2007. The petitioner joined service on 02.08.2007. The petitioner is claiming that like other employees he should be given notional service benefits from the date of recommendation by UPSC. The respondent has rejected his representation by impugned orders.

3. Mr. H.S. Saini, learned counsel for the petitioner submits that petitioner was recommended by UPSC in October' 2004. His appointment was delayed on account of respondent's lapse. There was no mistake on the part of petitioner still he has been denied claim of notional benefits. The respondent has granted claimed benefit to many employees who could not join because of lapse on the part of Administration or PEC. Case of petitioner is squarely covered by those precedents. The Central Government has issued office Memorandum whereby benefit of Old Pension Scheme (in short 'OPS') has been extended to all those employees who have joined after 01.01.2004 but their posts were advertised prior to 22.12.2003. In the case in hand, the posts were advertised in 2002, thus, petitioner is entitled to benefit of OPS. He attempted to file option as per office Memorandum dated 23.03.2023, however, respondent rejected his claim on the ground of pending writ petition.

4. *Per contra*, Mr. Prateek Mahajan, Advocate submits UPSC recommended name of petitioner on 08.10.2004 and PEC was declared deemed University in July' 2004. The new management decided to



return recommendations of UPSC because fresh appointments had to be made in accordance with Rules and Regulations applicable to deemed university. There was no intention to deny substantial benefit to the petitioner or any other candidate. As soon as petitioner got favourable order from CAT, he was issued appointment letter. He joined after 2 months. During the interregnum he was working with other Government or semi Government organisations. As he was in service, he cannot claim notional benefits.

On being confronted with office Memorandum dated 23.03.2023 issued by Government of India, Mr. Prateek Mahajan expressed his inability to controvert applicability of said Memorandum to petitioner.

5. I have heard the arguments and perused the record.

6. From the perusal of record and arguments of both sides, it is evident that PEC was declared deemed university in July' 2004. The petitioner was recommended by UPSC on 08.10.2004 and said recommendation was with respect to an advertisement which was issued in May' 2002. The petitioner was not permitted to join as his recommendation was returned to UPSC. He was permitted to join on the direction of CAT. The respondent has extended notional service benefit to different employees, however, petitioner is denied on the ground that he was working during the intervening period with other organizations and there was no lapse on the part of PEC/respondent.

The petitioner has cited cases of many candidates belonging to reserved or general category who were issued appointment letter at later stage and they were extended notional service benefits. The petitioner



was no doubt working with other organisations during the intervening period, thus, he cannot claim actual salary, however, he cannot be denied notional benefits when similarly situated employees have been extended the same benefit.

The prime concern of the respondent was OPS. The Government of India vide office Memorandum dated 23.03.2023 has cleared the mystery. The Government has conceded that benefit of OPS would be available to all those employees who have been selected after 01.01.2004 but vacancy was advertised/notified prior to 22.12.2003. In the instant case, posts were advertised in May' 2002 means much prior to cut off date. The petitioner is entitled to benefit of OPS, thus, apprehension of respondent is allayed.

7. In the wake of above discussion and findings, this Court is of the considered opinion that petitioner is entitled to notional benefits from the date of his recommendation by UPSC. The period would be calculated in the same manner as in the case of similarly situated persons *qua* same advertisement. As conceded by counsel for the petitioner, the petitioner would not be entitled to benefit of seniority. His seniority would be calculated from the date of joining.

Let the needful be done within 3 months from today.

8. Disposed of.

11.07.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes