

LPA-912-2020

2025:PHHC:041645-DB



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

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Date of Decision: March 26, 2025

State of Punjab and others

.....Appellants

Versus

Buta Ram

..... Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Shekhar Verma, Addl.AG, Punjab.

Mr. Yagyadeep, Advocate and
Mr. Davinder Singh, Advocate for the respondent.

LISA GILL, J.

1. This appeal has been filed by State/Department challenging decision dated 04.03.2020 passed by learned Single Bench whereby CWP-1512-2002 filed by respondent has been allowed.

2. Respondent (writ petitioner) filed CWP-1512-2002 seeking a direction to the respondents to grant retiral benefits by treating him to be a regular employee, in the light of decision dated 20.05.1974, whereby his services were regularized on the post of Cashier in terms of circular dated 29.01.1973, issued by State of Punjab.

3. It is the case of respondent (writ petitioner) that he was initially appointed as Cashier on adhoc basis by Principal, Government Medical College, Amritsar vide letter dated 26.10.1971. His services were extended from time to time by Director Research and Medical Education. His services

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alongwith services of other officials were further extended vide order dated 29.06.1973. His services were regularized vide order dated 20.01.1974 w.e.f. 01.01.1973 on the terms and conditions as are mentioned therein. It is stated in said order dated 20.01.1974 that writ petitioner will be governed by provisions of Punjab Civil Services Rules and relevant Subordinate Services (Recruitment and Condition Services) Rules as applicable to his post and as existing from time to time and of all other matters not specified therein, he would be subject to Rules and Orders of Government in force from time to time. His services were regularized on the basis of proceedings of Departmental Promotion Committee (DPC) headed by the then Director Health Services Punjab. Respondent (writ petitioner) superannuated on attaining the age of 58 years on 31.05.2001. Prior thereto, he submitted necessary request for grant of his pension, death-cum-retirement gratuity and other retiral benefits. However, retiral benefits and pension were denied by respondents on the ground that his services had been regularized in the Amalgamated Fund and according to Amalgamated Fund Rules he was not entitled for any pensionary benefits. Order dated 20.05.1974 whereby his services were regularized earlier were superseded by communication dated 16.01.1975 issued by Director, Health and Family Planning Punjab whereby his services were regularized against the post of Cashier sanctioned out of the amalgamated fund.

4. Aggrieved of denial of pension and retiral benefits CWP-1512-2002 was filed by writ petitioner. Learned Single Judge vide impugned decision dated 04.03.2020 concluded that this action of the Department/State was illegal and unjustified. It was observed that services of writ petitioner

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were duly regularized vide order dated 20.05.1974 on the post of Cashier. No prior notice of action of respondent in shifting him to Amalgamated Fund was ever issued to him. Supersession of order dated 20.05.1974 by order dated 16.01.1975 was held to be illegal and unjustified, as it virtually had the effect of de-regularizing his services without following principles of natural justice. Order dated 29.05.2001 as well as order dated 16.01.1975 were set aside and writ petitioner held entitled to grant of retiral benefits. Aggrieved therefrom, State of Punjab/Department has filed the present appeal.

5. Learned counsel for the State vehemently argued that respondent (writ petitioner) was never getting salary from anywhere but the Amalgamated Fund. Furthermore, order dated 16.01.1975 whereby services of writ petitioner on the post of Cashier were regularized qua Amalgamated fund was never challenged by him till his retirement. It was, thus, prayed that this appeal be allowed, impugned order dated 04.03.2020 passed by learned Single Bench be set aside and writ petition filed by respondent (writ petitioner) be dismissed throughout.

6. Learned counsel for respondent refuted the arguments as raised on behalf of appellants and submitted that impugned order has been passed correctly after proper appreciation of law, facts and circumstances. Writ petitioner is entitled to retiral benefits as have been afforded. Other employees whose services were also regularized alongwith writ petitioner namely Charan Singh, Vijay Kumar and Smt. Vijay Lakshmi were duly afforded all retiral benefits and pension. Subsequent supersession of order dated 20.05.1974 vide order dated 16.01.1975 has been rightly held to be illegal. It was, thus, prayed that present appeal be dismissed.

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7. We have heard learned counsel for the parties and have carefully perused the file.

8. Appointment of writ petitioner on the post of Cashier on adhoc basis at initial stage on 26.10.1971, regularization of his service to the said post vide order dated 20.05.1974 is a matter of record and not in dispute. It is pertinent to note that extension in ad hoc service of writ petitioner alongwith Vijay Kumar, Vijay Lakshmi, Charan Singh and Tejinder Kaur was granted vide order dated 25.06.1973, subject to their work and conduct being satisfactory and till their recommendation by Subordinate Service Selection Board/till their services were required by Department/till regular incumbent joined or till their regularization by the Departmental Committee under circular letter dated 29.01.1973. Admittedly, services of all these employees were regularized in terms of circular dated 29.01.1973 after recommendation by DPC. In the case of petitioner, order dated 20.01.1974 is stated to have been superseded vide order dated 16.01.1975, relevant portion of which reads as under:-

“ In supersession of the office endst No. 2ME-Pb.74/7291 dated 20.05.1974 service of Sh. Buta Ram, Cashier already working on adhoc basis since 29-10-71 against the post of cashier sanctioned by the Punjab Government vide their memo No.79-1HB-71/1132 dated 20-01-71 out of students, Amalgamated fund in the Scale of Rs.110-4-130/5-180-6-210/B-25 plus usual allowances as sanctioned by the Punjab Government from time to time, are hereby regularized against the said post, with immediate effect.”

9. Admittedly, no notice was ever issued to the writ petitioner before passing order dated 16.01.1975. There is indeed nothing on record to justify or sustain supersession of order of regularization dated 20.05.1974 by

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subsequent order dated 16.01.1975. There is no Rule or Regulation pointed out before us to indicate that such course of action was even available to the respondents. We do not find any merit in the argument raised by learned counsel for State that order dated 16.01.1975 was never challenged, therefore, writ petitioner is not entitled for any relief. In the given facts and circumstances, it is to be noticed that order dated 16.01.1975 by itself does not even convey as such that employee would not be entitled to pension or pensionary benefits. Moreover, it is a matter of record that other employees, who had been granted extension in adhoc service alongwith petitioner vide order dated 25.06.1973, were regularized and are in receipt of pension and retiral benefits. Submission of learned counsel for State that they were drawing their salary from Head of Account 2210 - Medical and Public Health (non plan) and not from Amalgamated Fund, cannot be a ground to deny the benefit to the employee. Learned Single Bench has correctly passed the order dated 04.03.2020 which calls for no interference whatsoever by this Court.

10. Learned counsel for appellant/State is unable to point out any illegality, infirmity or irregularity in impugned order dated 04.03.2020.

11. No other argument has been addressed.

12. This appeal being devoid of any merit is dismissed.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

March 26, 2025

Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No