



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104+209

CM-5549-CWP-2025 in/and
CWP-9567-2014
Decided On: 02.09.2025

DR. SATYA NARAIN SHARMA

....PETITIONER(s)

Versus

STATE OF HARYANA AND OTHERS

....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. V. P. Singla, Advocate
for the applicant/petitioner.

Mr. Amit Sahni, Additional Advocate General, Haryana.

TRIBHUVAN DAHIYA J.(Oral)

CM-5549-CWP-2025

For the reasons stated in the application, the same is allowed.
Order dated 14.07.2010 is taken on record as Annexure P-7, subject to all just exceptions.

Main Case

The petition has been filed seeking a writ of *mandamus* directing the respondents to consider the period from 31.08.2010 to 28.02.2011, for which the petitioner worked after retirement as Principal of an aided College, as service and release salary and pensionary benefits for the same as per directions issued by the Supreme Court vide order dated 17.07.2013, Annexure P-3. Further, a direction has been sought to count the period of petitioner's *ad hoc* service from 30.11.1987 to 28.02.1989 for pension and gratuity, and give the benefit of leave encashment for 423 days with interest.



2. Learned counsel for the petitioner contended that while working as Principal of the College, the petitioner was due to retire from service on 31.08.2010 on attaining the age of superannuation. The date of retirement was challenged by him along with other teachers by filing, CWP-8823-2010, and vide interim order dated 14.07.2010, the following directions were issued:

In view of the above circumstances, such of the petitioners who have not retired as on date, shall not be retired till further orders. However, they shall not be entitled to salary/emoluments for the period beyond their retirement.

The writ petition was finally dismissed by this Court vide order dated 04.03.2011, and the petitioner was relieved from service with effect from 28.02.2011. The order passed by this Court was challenged by him in the Supreme Court by filing Civil Appeals no. 5630-5653 of 2013, which were decided along with other Civil Appeals vide judgment dated 17.07.2013, with the following observations:

67. We, therefore, see no reason to interfere with the impugned judgment and order of the Division Bench of the High Court in all these matters in the light of the various submissions made on behalf of the respective parties. The several Appeals, Writ Petitions and the Transferred Case, which involve the same questions as considered in this batch of cases, are all dismissed. However, the Appeals filed by the State of Uttarakhand and Civil Appeals arising out of SLP (C) Nos. 6724, 13747 and 14676 of 2012 are allowed. As far as the Transfer Petition Nos. 1062-1068 OF 2012 are concerned, the same are allowed and the Transferred Cases are dismissed. The Contempt Petitions are disposed of by virtue of this judgment. However, persons who have continued to work on the basis of the interim orders passed by this Court or any other Court, shall not be denied the benefit of service during the said period. The Appeals and Petitions



having been dismissed, both the State Authorities and the Central Authorities will be at liberty to work out their remedies in accordance with law.

2.1. Learned counsel has placed reliance upon the directions by the Supreme Court that the persons who had continued to work on the basis of interim order passed by this Court, shall not be denied the benefits of service during that period. It is claimed that the petitioner worked as Principal in the College in terms of interim order dated 14.07.2010 passed by this Court, from 01.09.2010 to 28.02.2011, and became entitled to all service benefits of salary, dearness allowances, leave encashment and pensionary benefits. It is also claimed that the *ad hoc* service rendered by him from 30.11.1987 to 28.02.1989 along with aforementioned period of service should also be calculated for pensionary benefits. Further, a reference has been made to information received under the Right to Information Act, 2005, from the Maharshi Dayanand University, Rohtak, dated 07.04.2023, Annexure P-6, to the effect that some similarly placed teachers of the University, whose Civil Appeals were dismissed by the Supreme Court along with that of the petitioner vide order dated 17.07.2013, had been released the amount of salary along with arrears and benefits of leave encashment, etc.

3. *Per contra*, learned State counsel submits that the petitioner is not entitled to any service benefits because after the interim order dated 14.07.2010 passed by this Court, the third respondent/Director, Higher Education, issued directions, vide memo dated 27.12.2010, Annexure R-1/T, which are as under:

This is to inform you that some employees working in Govt. Aided Private Colleges have filed Civil Writ Petitions for extension of superannuation age 60 to 65 years in the Hon'ble



High Court wherein the Hon'ble High Court has passed the interim order on 14.07.2010 that the petitioners are not to be retired on their superannuation age but they will not be paid the salary after the date of superannuation. The same nature matters are still pending in the Hon'ble High Court. If any such employee is working in your college, please ensure to take action as follows:-

1. The Status of the petitioners would remain as retired Principal/Lecturer in your college.
2. The petitioner who have D.D. Powers on the date of their superannuation the DD Power will not be given to them after superannuation.
3. Any other responsibility, work/work load/will not be given to that petitioner.
4. The Pension/Gratuity Bill of the petitioners will be prepared and sent to the Directorate for approval. If any petitioner denies to take the retirement benefits then take an affidavit from him that in future the possibilities of demand of interest on the retiral benefits cannot be claimed.

He further submits that even if the petitioner was allowed to work by the College after attaining the age of superannuation, it was in violation of the aforesaid directions that he was not to be given any work or responsibility. Therefore, on the principle of 'no work no pay', he cannot be held entitled to claim the service benefits. Regarding the payment of leave encashment, he contends that the petitioner has been an employee of an aided College, and the benefit of leave encashment is not admissible to him. Regarding counting of *ad hoc* service as well as the service rendered after the retirement as qualifying towards the pensionary benefits, he further submits that in terms of the Haryana Affiliated Colleges (Pension and Contributory Provident Fund),



Rules, 1999, the service cannot be counted as qualifying service. Section 2(j) of the Rules defines 'qualifying service' as service that qualifies for pension under these Rules. It will be taken into account with effect from the date an employee starts contribution towards Contributory Provident Fund.

4. The submissions made by learned counsel for the parties have been considered.

5. As apparent on record, the petitioner was due to retire from service on attaining the age of superannuation with effect from 31.08.2010. However, in terms of interim order passed by this Court in CWP-8823-2010, it was directed that he would not be retired on that day, but shall not be entitled to salary/emoluments for working beyond the period of his retirement. The petition was finally dismissed by this Court vide order dated 04.03.2011, which was challenged by the petitioner before the Supreme Court, and vide judgment dated 17.07.2013, while dismissing the appeals it was directed that a person who had continued to work on the basis of interim order passed by this Court, shall not be denied the benefits of service. There is no direction that the petitioner will be entitled to salary/emoluments for the period he has worked beyond the date of retirement. This has specifically been declined by this Court vide interim order dated 14.07.2010, pursuant where to he continued working and never challenged the same. Having acquiesced to working without salary in terms of the interim order, he gave up the claim for salary and cannot be allowed to ask for it at this stage. Further, as per directions issued by the Directorate vide memo dated 27.12.2010, the petitioner's status remained that of a retired Principal, and was not authorised to exercise powers of Drawing and Disbursing Officer after the date of superannuation. Also, he



was not to be assigned any work after that date. Accordingly, he could not have been given any work legally. On this account also, the petitioner cannot be held entitled to any salary/emoluments for any work he might have done after the date of retirement, or any other service benefit. The salary etc. statedly given to some of its teachers by the M.D. University is also inconsequential because the petitioner is not a University employee; nor is the University a party to the petition, and the fact cannot be established on record on the basis of information under the RTI Act. The petitioner's non-entitlement stands determined on the basis of applicable facts and law, as already discussed.

6. The prayer for counting *ad hoc* service rendered prior to joining service as qualifying service can also not be entertained at this stage, as the cause of action to claim the relief arose to the petitioner on the date of joining service in February, 1989. However, he remained in slumber for over two decades and cannot be allowed to agitate his rights by way of instant petition. Lastly, the service rendered after the date of superannuation cannot be considered as qualifying service under the 1999 Rules, since no salary/emoluments were admissible for this period.

7. In view thereof, there is no ground to entertain the present petition and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

02.09.2025

Ad

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No