

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

Pronounced on : 08.08.2018

Reserved on : 01.08.2018

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)  
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

**OA No. 060/00034/2017**

Kamla Kumari, Counselling Mistress (Retd.), GGMSSS, Sector 18, Chandigarh, resident of House No. 3183, Sector 21-D, Chandigarh, 64 years (Group B)

...Applicant

BY ADVOCATE: **Sh. J.R. Syal**

**Versus**

1. Union of India through Secretary, Ministry of Home Affairs, North Block, New Delhi – 110 001.
2. Union Territory, Chandigarh through Home Secretary-cum-Secretary Education, Chandigarh Administration, Chandigarh.
3. Director, Public Instructions (s), Chandigarh Administration, Sector 9, Chandigarh.
4. The Accountant General (A&E), UT Chandigarh.

...Respondents

BY ADVOCATE: **Sh. A.L. Nanda**

**ORDER**

**BY MRS. P. GOPINATH, MEMBER(A):-**

The applicant in this OA prays for counting temporary service for the period 14.02.1976 to 21.02.1980 towards pension and other retiral benefits.

2. Applicant joined on a temporary basis as JBT teacher in Government Girls Senior Secondary School, Sector 8 Chandigarh on 14.02.1976. Thereafter, she became SS Mistress on 05.11.1980 and

Counseling Mistress on 13.10.1986. The applicant retired from service on attaining the age of superannuation on 30.09.2010.

3. Applicant's argument is that while calculating pension, the temporary service rendered for period 14.02.1976 to 21.02.1980 has not been included. In support of her argument, she submits that one Smt. Santosh Kumari, retired Head Hindi Mistress' service for the period 25.09.1974 to 30.05.1979 was counted for pensionary and other retiral benefits excluding the period of interruption.

4. Applicant also cites the Tribunal order dated 30.03.2004 in OA No. 959-CH-2003 titled Gurmit Singh Vs. UT Chandigarh & Ors. and order dated 25.05.2011 in OA No. 521-CH-2010 titled Pushpa Rani Vs. UOI & Ors. (Annexures A-15 & A-16 respectively) to support her case.

5. The respondents in their short reply submit that the applicant retired from service on 30.09.2010 and filed the OA on 09.01.2017 after seven years of her retirement and the OA is barred by limitation.

6. Applicant would argue that receipt of pension is a continuous cause of action and therefore, the delay be condoned and is done so.

7. Pension of the applicant is governed by Punjab Civil Service Rules. Chapter III Section II A Rule 3.12 of Punjab Civil Service Rules deals with service qualifying for pension which lays down certain conditions. The service rendered should be against a regular post/vacancy. The applicant in the OA, as she herself admits,

was made to work against various posts in the territory which were vacant for one reason or other, and her engagement was not confined to one regular post. The service of a Government employee qualifies for pension under three conditions as follows:-

- (i) The service must be under Government;
- (ii) The employment must be substantive and permanent;
- (iii) The service must be paid by Government.

Applicant fulfills all the above three conditions except the initial period from 14.02.1976 to 05.11.1980. Rule 3.15 states that a competent authority may, when both the first and second conditions of Rule 3.12 are fulfilled, declare that the service would count towards pension. Rule 3.17 states that if an employee was holding substantially a permanent post on the date of his retirement, has temporary or officiating service under the State Government, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service. Rule 3.17 A provides that after 1.1.1973, half of the service paid from contingencies, will be allowed to count towards pension at the time of absorption in regular appointment, subject to the condition that

- the service was in the nature of a whole term employee,
- service was in lieu of a job for which regular post could have been sanctioned,
- service should have been one for which payment is made either on monthly or daily basis
- the service should have been continuous and followed by absorption and regular appointment without a break.

8. The applicant in para 4(iv) of the OA submits details of her engagement on temporary basis for periods 14.02.1976-05.03.1976, 09.03.1976-03.04.1976, 29.04.1976-31.05.1976 (gap of three months & five days), 06.09.1976-05.10.1976 (gap of 11 months), 19.08.1977-23.10.1977, 09.08.1978-05.11.1978, 07.11.1978-17.12.1978, 19.12.1978-28.03.1979, 31.03.1979-31.05.1979 (gap of two months), 25.07.1979-17.08.1979, 18.08.1979-04.10.1979 and 04.10.1979-21.02.1980.

From the above dates of engagement submitted by the applicant, it is noted that there is a gap of different short durations and in view of these gaps, it cannot be said that the engagement was continuous as contended by the applicant.

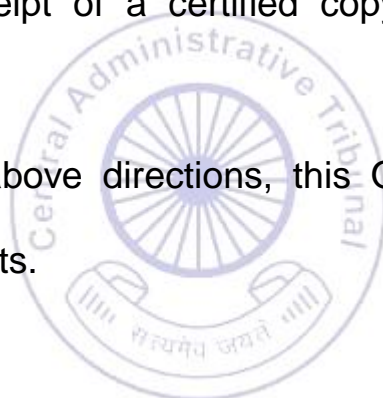
9. Therefore, counting the entire service for the period 1976 to 1980 would not be feasible in view of the gaps as detailed above. Going by the provisions of Chapter III Section II A Rule 3.12 of Punjab Civil Service Rules, the applicant was serving under the Government against different posts which were substantive and permanent and the applicant was also being paid by the Government. Further, going by the provisions of Rule 3.17-A, the applicant fulfils the conditions of whole time employment and was in service for which he was paid on a monthly rate.

10. On above grounds, the applicant's contention that her temporary service on vacancy based arrangement is required to be counted, appears to be a feasible argument.

11. Applicant cites Rule 4.23 of Punjab Civil Service Rules Volume II which visualizes a period of interruption between the two spells of service which can be automatically condoned and the pre-interruption service be treated as qualifying service for pension purpose.

12. In view of the position as laid down in Rule 4.23, as stated above, the temporary service rendered by the applicant be counted towards calculation of pension, excluding the period of non-engagement as broughtout in para 8 of this order, and the applicant's pension be refixed and arrears paid within a period of four months from the date of receipt of a certified copy of this order by the respondents.

13. With the above directions, this OA stands disposed of with no order as to costs.



**(P. GOPINATH)  
MEMBER (A)**

**(SANJEEV KAUSHIK)  
MEMBER (J)**

Dated:  
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