

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Civil Writ Petition No.6983 of 2010

Date of Decision: November 30, 2010

Jit Kaur

.....PETITIONER(S)

VERSUS

State of Punjab and others

.....RESPONDENT(S)

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CORAM: HON'BLE MR. JUSTICE AJAI LAMBA

PRESENT:- Mr. Ravi Kant, Advocate, for the
petitioner.

Mr. B.S. Chahal, Deputy Advocate
General, Punjab.

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AJAI LAMBA, J (Oral)

1. This civil writ petition has been filed under Article 226 of the Constitution of India praying for issuance of a writ in the nature of mandamus directing the respondents to release pension and other retiral benefits to the petitioner alongwith interest with effect from the date of retirement of the petitioner viz. 31.10.2006.

2. It has been pleaded on behalf of the petitioner that the petitioner was appointed

as Part-Time Sweeper on 1.9.1977 in Government Middle School, Kadijala Sainian, District Hoshiarpur. The petitioner apprehended that she would be removed from service and therefore, she filed *Civil Writ Petition No.3676 of 2001*. The said petition was disposed of vide judgment dated 21.4.2003 while saying that the respondents would consider the claim in the light of decision dated 23.9.2002 rendered in *Civil Writ Petition No.12199 of 2000* titled 'Sukhdev Kaur & another vs. State of Punjab & others'.

3. The respondents did not comply with the order and therefore, petitioner filed a Contempt of Court Petition. The Circle Education Officer, in the meantime, rejected the claim of the petitioner while holding that the name of the petitioner could be considered only in terms of seniority of part-time Sweepers working in the Government Schools in district Hoshiarpur. The name of the petitioner at that point in time figured at Seniority No.131 and therefore, it did not fall in the quota of workers to be regularised in service.

4. Considering the stand of the respondents, the Court while dealing with the Contempt of Court Petition, gave opportunity to the respondents to comply with decision of the

Court rendered in Civil Writ Petition No.12199 of 2000 to which reference has been made above.

5. It appears that in pursuance to the directions issued in contempt proceedings, the services of the petitioner were regularised as Sweeper in the category of Class IV employees, vide Order dated 3.11.2005 (Annexure P-2). Having done that, the Contempt of Court Petition was disposed of vide order dated 8.11.2005 (Annexure P-3).

6. It transpires that the petitioner retired from service on 31.10.2006.

7. It is not in dispute that the period of service of the petitioner was not regularised since the date of her joining on part-time basis on 1.9.1977. It is the admitted case that the petitioner served on regular basis only w.e.f. 3.11.2005 till 31.10.2006.

8. In such circumstances, learned counsel for the petitioner has not been able to refer to any rule or case law that would allow a direction in favour of the petitioner to grant pensionary benefits. Contrary to this, learned counsel for the respondent-State has referred to Rule 3.17-A [Proviso (a)] of Punjab Civil Services, Volume II, which reads as under:-

“3.17-A. (1) Subject to the provisions of rule 4.23 and other rules and except in the cases mentioned below, all service rendered on establishment, interrupted or

continuous shall count as qualifying service :-

(i) Service rendered in work-charged establishment.

(ii) Service paid from contingencies:

Provided that after 1st January, 1973 half of the service paid from contingencies will be allowed to count towards pension at the time of absorption in regular employment subject to the following conditions :-

(a) Service paid from contingencies should have been in a job involving whole-time employment (and not part-time or for a portion of the day)."

9. Considering the facts and circumstances and legal position as reflected from the rule extracted above, it transpires that the services of the petitioner rendered on part-time basis cannot be considered as qualifying service.

10. In view of the above, I do not find that any right is vested in the petitioner to claim pension and other such benefits under the rules in context of part-time service rendered by the petitioner. No fault can be traced in the action of the respondents.

10. The petition is accordingly dismissed.

November 30, 2010

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(AJAI LAMBA)
JUDGE

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?