

(2013) 08 P&H CK 0798

High Court Of Punjab And Haryana At Chandigarh

Case No: RA-CW-239-2013 in CWP-25775-CAT-2012

UT Chandigarh and Others

APPELLANT

Vs

Madhu Bala Bakshi and Others

RESPONDENT

Date of Decision: Aug. 2, 2013

Acts Referred:

- Constitution of India, 1950 - Article 309

Hon'ble Judges: Surya Kant, J; R.P. Nagrath, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Surya Kant, J.

The applicant-respondent No. 1 seeks review of the order dated 29th April, 2013 whereby the writ petition preferred by the Chandigarh Administration against the order dated 16th August, 2012 of the Central Administration Tribunal, Chandigarh Bench, Chandigarh (in short, "the Tribunal"), was allowed and while setting aside that order, a direction to release retiral and other monetary benefits including salary for the re-employed period, has been directed to be released to the applicant/respondent No. 1 along with interest @ 7% per annum. While reiterating that she was entitled to "extension in service" for a period of two years instead of "re-employment", namely, the claim upheld by the Tribunal, the review-applicant made the following submissions in-person:-

i. In view of the Government of India Notification dated 13th January, 1992 issued under proviso to Article 309 of the Constitution "conditions of service", as applicable to the corresponding posts in Punjab State, are enforceable in the Union Territory of Chandigarh, hence the policy of Punjab State in the matter of extension in service of a National Awardee teacher is applicable in Union Territory Chandigarh and in terms thereof, the review-applicant is entitled to extension in service and not re-employment;

ii. The Administrator, Union Territory, Chandigarh has no authority to frame a policy like Circular dated 14th January, 2009 and in any case it had no retrospective effect. Since the Chandigarh Administration had committed to grant extension in service to the review-applicant in the year 1992-93, the afore-stated policy Circular was inapplicable in her case;

iii. The policy Circular dated 14th January, 2009 being administrative in character cannot amend or supplant the statutory service rules;

iv. The principles of "accrued right" and "legitimate expectations" are also attracted in favour of the review-applicant.

2. We have heard the review-applicant at some length and do appreciate her sentiments. It may be equally true that the change in policy decision by the UT Administration has disheartened the review-applicant who was expecting two years' extension in service at the time of her retirement on superannuation w.e.f. 30th November, 2010 at the age of 58 years. The question before the Tribunal or this Court was whether the conditions of service as applicable in the State of Punjab for the corresponding posts shall apply to the employees of the Chandigarh Administration even in a case where after the notification dated 13th January, 1992, the Chandigarh Administration has taken its own policy decision, duly approved by its Administrator? Vide order dated 29th April, 2013, we upheld such a power vested in the Administrator and keeping in view the later policy decision dated 14th January 2009 have held that it was prospectively applicable in respect of those National Awardee teachers who would retire after that date.

3. It may also be noticed here that the review applicant did not challenge the validity of the policy circular dated 14th January, 2009 before the Tribunal nor its validity was ever separately questioned before this Court through appropriate proceedings.

4. We thus do not find any error apparent on record to recall or modify the order dated 29th April, 2013. Dismissed.