

*Before Surya Kant, J*

**DR. RAVI PRASHAR,—Petitioner**

*versus*

**PUNJAB UNIVERSITY, CHANDIGARH,—Respondent**

**C.W.P. No. 2060 of 2009**

30th June, 2010

*Constitution of India, 1950—Art.226—Punjab University Employees' (Pension) Regulations—Rls. 3.1 to 3.5—Punjab University Calendar Volume I, 2007—Reg. 17.9—Temporary appointment of petitioner as Teaching Assistant—Work and conduct of petitioner found to be satisfactory—Regularization of services—Provisions of Rules 3.2 to 3.5 provide that Temporary and work-charged service rendered qualifies for pension and other retiral benefits provided that such service is followed by regular appointment and is a full time job—Petitioner's service fully satisfying all ingredients and pre-conditions of rules—Petition allowed, petitioner held entitled to benefit of temporary service rendered by him towards 'qualifying service' for purpose of pension and other retiral benefits.*

*Held*, that the petitioner admittedly served as a full time 'Teaching Assistant' and was paid salary by the respondent-University. The petitioner's appointment though was initially for a period of three years but was "governed under the Rule and Regulations of the University." Admittedly, the petitioner served uninterruptedly followed by his regular appointment with effect from 1st April, 1974. The petitioner's appointment cannot be termed as 'tenure appointment' as even after expiry of three years' period on 19th July, 1973, neither it was terminated nor an order of fresh renewal was passed.

(Para 9)

*Further held*, that the initial appointment of the petitioner with effect from 20th July, 1970 was nothing but a temporary appointment like of a probationer and the University-authorities being fully satisfied with his work and conduct, regularized the petitioner's service with effect from 1st April,

1974. The petitioner's service for the subject period, thus, fully satisfies all the ingredients and pre-conditions of Rules 3.2 to 3.5 and deserves to be counted towards the 'qualifying service' for the purpose of pension and other retiral benefits.

(Para 10)

Sudhir Sharma, Advocate for the petitioner.

Deepak Sibal, Advocate for the petitioner.

**SURYA KANT, J. (ORAL)**

(1) The petitioner seeks quashing of the order dated 26th November, 2008 (Annexure P7), whereby, the benefit of past service rendered by him with effect from 20th July, 1970 to 31st March, 1974 towards the retiral benefits has been declined. The petitioner also seeks a *mandamus* to direct the respondent-University to count the afore-stated service towards qualifying service for pension and Gratuity etc.

(2) The petitioner was appointed as Teaching Assistant in the Department of Chemistry by the respondent-University with effect from 20th July, 1970 *vide* appointment letter (Annexure R/3) which reads as follows:—

“Shri Ravi Prashar Junior Research Fellow Department of Chemistry,  
PU, Chandigarh

Dear Sir,

With reference to your application for the post of Teaching Assistant in the Department of Chemistry, I am to inform you that the Syndicate at its meeting held on 18th July, 1970 has appointed you as a Teaching Assistant (Physical Chemistry) in the Deptt. of Chemistry, PU Chandigarh, @ Rs 350/- p.m. (fixed) with effect from the date you start work, for a period of three years.

The appointment will be governed under the rules/regulations of the University.

Please make it convenient to report for duty as Teaching Assistant at an early date.

Yours faithfully,

Sd/-

(Harkishan Singh)

Assistant Registrar (Accounts)

Panjab University”

(Emphasis applied)

(3) The appointment of the petitioner as Teaching Assistant was duly entered in the service book and he was allotted the residential accommodation also by the University on 31st May, 1972. The petitioner thereafter was made regular as Teaching Assistant with effect from 1st April, 1974 in the revised pay-scale of Rs. 700—1600. The petitioner thereafter completed his Ph.D. and was granted two additional increments on that count with effect from 1st April, 1975 followed by his promotion as Lecturer with effect from 1st September, 1977. The petitioner got further promotion as a Reader in July, 1989. The petitioner was due for retirement on attaining the age of 60 years with effect from 31st August, 1999 but continued to serve till 31st August, 2001 under the orders of this Court in a matter seeking enhancement in the age of retirement.

(4) The petitioner has been paid his retrial dues by counting his qualifying service with effect from 1st April, 1974 only. The short question that arises for consideration is as to whether or not the petitioner is entitled to the benefit of service rendered by him with effect from 20th July, 1970 till 31st March, 1974 towards the retrial benefits ?

(5) The respondent-University in its reply/affidavit maintains that the service rendered by the petitioner as ‘Teaching Assistant’ during the period in dispute was on a ‘tenure post’ on fixed emoluments and is not covered under Regulation 17.9 of Punjab University Calendar Volume-I, 2007 as ‘qualifying service’ which means ‘continuous service’ rendered in the University.

(6) On the other hand, the petitioner contends that the service rendered by him during the subject-period was at the best work-charged

service followed by his regular appointment and it deserves to be counted towards 'qualifying service' for the purposes of retiral service benefits, as ruled by a Full Bench of this Court in **Kesar Chand versus State of Punjab, (1)**.

(7) In order to appreciate the controversy, it would be appropriate to refer to Rules 3.1 to 3.5 of Punjab University Employee's (Pension) Regulations (relevant extracts only) which reads as follows :—

"3.1. Unless otherwise provided by special provision or contract, the service of an employee shall begin to qualify for pension when he takes charge of the post to which he is first appointed.

3.2. Except for compensation gratuity, service does not qualify till the employee has completed eighteen years of age."

3.3. Following are the general conditions which shall be fulfilled before service qualifies for pension :—

First: The service must be under the University as defined hereinafter.

Second: The service must be paid by the University as defined hereinafter.

3.4. The temporary employees shall be treated at par with permanent employees in respect of all retirement benefits viz. retiring, superannuation, compensation and invalid pension, service gratuity, death gratuity and retirement gratuity, provided that temporary service is followed without any interruption.

3.5. Service rendered by an employee as work-charged as also service paid from contingencies, qualifies for pension provided :

(i) Such service is followed by regular appointment.

(ii) such service is full-time job (and not part-time or portion of the day)."

(Emphasis applied)

(8) From the plain reading of the above-reproduced provisions, it is apparent that unless expressly excluded by a provision under the Rules or by terms of appointment, the service of an employee begins to qualify for pension when he takes charge of the post to which he is first appointed. Similarly, the temporary and work-charged service rendered under and paid by the University even if from Contingencies, qualifies for pension and other retiral benefits provided that such service is followed by regular appointment and is a full-time job.

(9) The petitioner admittedly served as a full time 'Teaching Assistant' and was paid salary by the respondent-University. The petitioner's appointment though was initially for a period of three years but was "governed under the Rule and Regulations of the University". Admittedly, the petitioner served uninterruptedly followed by his regular appointment with effect from 1st April, 1974. The petitioner's appointment cannot be termed as 'tenure appointment' as even after expiry of three years' period on 19th July, 1973, neither it was terminated nor an order of fresh renewal was passed.

(10) In the facts and circumstances of the present case, the initial appointment of the petitioner with effect from 20th July, 1970 was nothing but a temporary appointment like of a probationer and the University-authorities being fully satisfied with his work and conduct, regularized the petitioner's service with effect from 1st April, 1974. The petitioner's service for the subject period, thus, fully satisfies all the ingredients and pre-conditions of Rule 3.2 to 3.5 reproduced above and deserves to be counted towards the 'qualifying service' for the purpose of pension and other retiral benefits.

(11) For the reasons afore-stated, the writ petition is allowed; the impugned order dated 26th November, 2008 (Annexure P-7) is hereby quashed and the respondents are directed to include the service rendered by the petitioner from 20th July, 1970 to 31st March, 1974 as 'qualifying service' for the purpose of his retiral service benefits etc.

(12) The needful shall be done and consequential benefits shall be released to the petitioner within a period of three months from the date of receipt of a certified copy of this order.

(13) Ordered accordingly.

(14) Dasti.