

A PUNJAB SCHOOL EDUCATION BOARD

v.

DALIP CHAND AND OTHERS
(Civil Appeal No.7820 of 2013)

B SEPTEMBER 06, 2013

[K.S. RADHAKRISHNAN AND A.K. SIKRI, JJ.]

SERVICE LAW:

C *Service qualifying for pension - Service in Punjab*
D *Education Department - Reckoning of for pension on*
E *superannuation from Punjab School Education Board - Held:*
F *Employee is entitled to get benefit of Notification dated*
G *17.03.2011 issued by Punjab School Education Board and*
H *shall be eligible to add his service qualifying for*
superannuation pension -- Punjab School Education Board
(Employees Pension, Provident Fund and Gratuity)
Regulations, 1991 --Regulation 6.

The respondent prior to his selection as
E Superintendant in Punjab School Education Board on
08.08.1979, had worked in Department of Education,
Punjab from 7.4.1965 upto 08.08.1979. On his
superannuation w.e.f. 31.10.2000 from the School
Education Board, he claimed pension by reckoning his
F both the services, i.e. service in Education Department
and that in School Education Board. His claim was
rejected on the ground that since he was appointed
neither on transfer nor on deputation but was appointed
through direct recruitment, the service rendered by him
G in Education Department could not be treated as
qualifying service for pension. However, his writ petition
was allowed by the High Court.

Dismissing the appeal filed by the Board, the Court

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PUNJAB SCHOOL EDUCATION BOARD v. DALIP 689
CHAND

HELD: The respondent had already put in more than eight years of service in the Board, consequently, he is also entitled to get the benefit of Notification dated 17.03.2011, which prescribe that an employee shall be eligible to add his service qualifying for superannuation pension. [Para 8 and 9] [691-C-G]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7820 of 2013.

From the Judgment and Order dated 03.05.2007 of the High Court of Punjab & Haryana at Chandigarh in C.W.P. No. 6259 of 2006.

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S.K. Sabharwal, Nishtha Chawla, Prahlad Kumar for the Appellant.

Subhash Chander Pathala, Jagjit singh Chhabra, Yash Pal Dhingra for the Respondents.

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The Judgment of the Court was delivered by

K.S. RADHAKRISHNAN, J. 1. Leave granted.

2. The question that has come up for consideration in this appeal is whether the service rendered by the respondent in the Department of Education, Punjab be treated as qualifying service for the purpose of pension under the Punjab School Education Board (Employees Pension, Provident Fund and Gratuity) Regulations, 1991 (for short "the Regulations 1991").

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3. The respondent-herein was recruited as clerk by the Punjab Subordinate Service Selection Board on 07.04.1965 and he was posted in the Department of Education, Punjab. Later he was appointed as a lecturer in Political Science in Government Senior Secondary School, Valtoha, District Amritsar where he served upto 1970. He had worked as an assistant in Education Department from June 1970 to 08.08.1979.

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4. Punjab School Education Board on 03.05.1979 advertised for the post of Superintendent. The respondent

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A applied for the said post and was selected. Appointment order dated 03.08.1979 was sent to him and he joined on 08.08.1979 in the service of the Board. For the purpose of joining service of the Board he was relieved from the Education Department in the forenoon of 08.08.1979. After joining the service in the Board, the respondent was contributing CPF under the Punjab School Education Board (Provident Fund) Regulations, 1970, since at that time service in the Board was not pensionable. Service in the Board was later made pensionable under the 1991 Regulations w.e.f. 01.04.1991. All the employees who were employed after the inception of the Board were asked to give option to be governed either by the Pension Regulations or by the Provident Fund Regulations. The respondent opted to be governed by the Pension Regulations.

5. The respondent retired from the service after serving the Board from 08.08.1979 to 31.10.2000. Previously, he had served the Education Department for 14 years 1 month and 21 days. The respondent had put in a total service of 35 years 4 months and 14 days, reckoning both the services of the Education as well as the Board and respondent claimed pension under Regulation 6 of the 1991 Regulations.

6. The claim of the respondent was rejected by the Board on the ground that the benefit of Regulation 6 would apply only to those employees who had joined the service of the Board either on transfer or on deputation and were subsequently absorbed in the Board. Further it was pointed out that since the respondent was appointed neither on transfer nor on deputation but through direct recruitment, the service rendered by him in the Education Department could not be treated as qualifying service for the purpose of pension for his eligibility to get pension under the 1991 Regulations.

7. The High Court did not find any merit in the contention of the Board, allowed the writ petition and quashed the impugned orders passed by the Board on 06.07.2005 and 29.09.2005 and directed the Board to reckon the service of the respondent in the Education Department as qualifying service

for the purpose of pension. Aggrieved by the same, the Board has come up with this appeal A

8. We notice that a similar issue came for consideration before this Court in SLP(C) No.11837 of 2008, wherein a notification issued by the Board on 17.03.2011 was produced and this Court granted the benefit to a similarly placed pensioner. The order of this Court dated 14.03.2012 passed in SLP(C) No.11837 of 2008 reads as follows: B

"I.A. No.4 of 2012 has been filed by the respondents with a prayer to take on record Notification dated 17.03.2011 issued by the Punjab School Education Board (for short, 'the Board') under which an employee shall be eligible to add his service qualifying for superannuation pension, but not for any other pension. It further shows that benefit can be for a maximum period of 8 years only and not for more than 8 years. The respondents fall within this category. C D

Thus, in the light of the subsequent Notification dated 17.03.2011 issued by the Board, which has been given retrospective effect and would be applicable to all those who have been appointed before 1.1.2004 and do not fall within the prohibited category as per the proviso would be entitled for getting the necessary benefit thereof. In the light of this, there is no substance in this special leave petition, which is accordingly hereby dismissed. E

The learned counsel appearing for the respondents informed that in fact they are already been paid pensionary benefits." F

9. We are of the view that the said notification would equally apply to the respondent in this case as well. The respondent had already put in more than eight years of service in the Board, consequently, he is also entitled to get the benefit of notification dated 17.03.2011. In the circumstances, the appeal lacks merit and the same is dismissed, however, with no order as to costs. G

R.P. Appeal dismissed. H