

IN THE COURT OF PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

CWP No.16333 of 2012 (O&M)

Date of Decision: 09.02.2015

Sarabjit Singh

...Petitioner

Vs.

State Consumer Disputes Redressal Commission Punjab and others

..Respondents.

Present:- Mr. C.L.Sharma, Advocate for the petitioner.

Mr. Ashish Sharma, Addl. AG Punjab.

MAHESH GROVER, J. (ORAL)

At the outset, it may be noticed that the petitioner has not impugned the final seniority list issued by the respondents appended to the reply to the petition as Annexure R-1/11.

Learned counsel for the petitioner, would contend that it may not be necessary to do so as his arguments based on the averments made in the writ petition, would still constitute a valid ground of challenge in support of his case.

The Court then granted an opportunity to the petitioner so as to enable him to make up his mind as to whether he wanted to proceed with the case without a formal challenge to Annexure R1/11. Learned counsel for the petitioner states that he does not wish to challenge the final seniority.

The petitioner was appointed as Typist on 4.5.95 in the District Consumer Forum, Patiala on ad hoc basis for 89 days. The petitioner states that he joined on 18.12.95 on regular basis in District Consumer Forum, Hoshirpur as Junior Scale Stenographer whereas respondent No.3 was also appointed on 4.5.95 as Stenographer in the District Consumer Forum, Hoshiarpur on ad hoc basis for 89 days and he joined on regular basis on 5.8.1996 as Junior Scale Stenographer. In the seniority list, issued by respondent No.1 petitioner was shown at serial No.3 and respondent No.3 at serial No.13.

A representation was made by respondent No.3 to count his ad hoc service for seniority and grant of increments which was considered favourably by the President District Consumer Forum, Hoshiarpur to grant him increments but his claim of counting his ad hoc service for seniority was rejected. Subsequently, however, the President State Consumer Commission, Punjab counted the ad hoc service of respondent No.3 towards seniority to rank him senior and grant him promotion to the post of Superintendent, thereby prejudicing the cause of the petitioner.

Thus, the petitioner essentially is only aggrieved by the seniority conferred upon respondent No.3.

It is the conceded case of the petitioner that respondent No.3 and he himself were appointed, after their names were requisitioned from Employment Exchange. This indicates that the manner of appointment of respondent No.3 was in accordance with the established mode of public employment/appointment. If that be so he would certainly be entitled to benefit of ad hoc service for the purpose of seniority as this is settled proposition of law, that for the purpose of reckoning seniority the ad hoc

service rendered by an employee would be taken into consideration only if the appointment was made after following the procedure for appointment prescribed under the rules. This view has been expressed by Hon'ble the Supreme Court in ***R.S.Garg Vs. State of U.P. And others 2006(3)SCT 682.***

Confronted with the situation, learned counsel for the petitioner has no further point to argue.

Apart from this it has to be noticed that the petitioner has not impugned the final seniority and rather his grievance is only directed against the counting of ad hoc service of respondent No.3 which cannot be answered in isolation with no challenge to the final seniority list. This issue also would stand in the way of the petitioner who has waived of his right to do so when a question was put to him by the Court. Looking from any angle, this Court finds no merit in the petition.

The petition is dismissed.

09.02.2015
Meenu

(Mahesh Grover)
Judge