

**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

1. CWP No.8411 of 2010

Raj Kumar and others ...Petitioners

Versus

State of Haryana and others ... Respondents

2. CWP No.10364 of 2010

Ashok Kumar and others ...Petitioners

Versus

The State of Haryana and others ... Respondents

3. CWP No.10374 of 2010

Ram Krishan Shrivastava and others ...Petitioners

Versus

State of Haryana and others ... Respondents

Date of Decision:01/09/2015

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Anurag Goyal, Advocate for the petitioners.

Mr. Harish Rathee, Sr. D.A.G. Haryana.

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

DEEPAK SIBAL, J. (Oral)

The issues of fact and law raised in CWP Nos.8411, 10364 and 10374 of 2010 being similar were taken up for hearing together and are

being disposed of through this common judgment. However, for the sake of convenience, the facts have been taken from CWP No.8411 of 2010.

In the year 1997, the petitioners were appointed on contractual basis as JBT/Hindi Teachers. As per the terms of their contract, they were relieved from the posts held by them. Thereafter, in the year 1998 on the basis of a fresh contract, they were again appointed.

While the petitioners served the respondents, on contractual basis, on 1.10.2003, a policy was framed by the State of Haryana for regularization of the services of contractual employees under which the services of the petitioners were regularized with effect from 1.10.2003. Such order of regularization of their services w.e.f. 1.10.2003 was accepted by them without any protest. In fact only after five years thereof, on 20.8.2008, the petitioners, for the first time made a representation to the respondents through which they sought the benefit of continuity of service for the gap period between their two contractual appointments in the years 1997-1998. When their representation was not responded to, the petitioners approached this Court through CWP No.21548 of 2008; Raj Kumar and others v. State of Haryana and others. This writ petition was disposed of vide order dated 23.12.2008 whereby the respondents were directed to decide the representation made by the petitioners within two months from the date of receipt of a certified copy of the order. In compliance with the order of this Court dated 23.12.2008, the respondents passed a speaking order dated 19.6.2009 rejecting the case of the petitioners which gave them a cause to approach this Court through the present writ petition.

I have heard learned counsel for the parties and gone through the record of the case.

In the year 1997, the petitioners were appointed on contractual basis and were relieved as per the terms of their contract. On the basis of a fresh contract, they were again appointed in the year 1998. Admittedly, at that time no claim was made by the petitioners claiming continuity of service.

Thereafter, in terms of the regularization policy of the State of Haryana dated 1.10.2003, their services were regularized. At that time also, the petitioners did not claim any benefit of continuity of service as claimed by them now. Rather all benefits flowing from the regularization policy dated 1.10.2003 were happily accepted by them.

Even after the regularization of their services, the petitioners continued to serve the respondents for five years without raising any claim as raised through the present petition. It is only in August 2008 that they woke up from their deep slumber to represent to the respondents claiming continuity of service for the gap period in their service between their two contractual appointments in the years 1997-1998.

The claim of the petitioners is highly belated and cannot be acceded to. The cause of action arose in the year 1998 but admittedly the same was raised by the petitioners for the first time only in the year 2008 i.e. after over 10 years. No explanation for the said inordinate delay has been furnished.

Further, this issue was also not raised by them at the time of regularization of their services in the year 2003.

Having accepted themselves to be a fresh appointee in the year 1998 as also for not raising the issue on the date of their regularization in the year 2003, the petitioners had clearly estopped from raising the issue as

raised in the present petition especially after a delay of over a decade.

The argument raised by the learned counsel for the petitioners that recurring loss is being caused to the petitioners and therefore, the plea of limitation cannot be raised to defeat their rights does not arise in the case in hand since the issue for claim of continuity in service should have been raised by the petitioners in the year 1998 itself.

Learned counsel for the petitioners has further drawn my attention to certain orders passed in the case of other employees who are stated to be similarly situated and claims parity qua them. This argument is to be considered only to be rejected. It is the admitted case between the parties that the period for which the petitioners claim continuity of service was a period between two appointments each made on the basis of its own terms and conditions. No law has been cited in support of such prayer having been made. In fact the settled law is otherwise. Further the benefit of continuity in service cannot be allowed in the case of the petitioners as their initial appointments in the year 1997 were on contract basis on consolidated salary. They were relived as per the terms of their contract which they accepted. Thereafter on the basis of a fresh contract, they were again appointed. The petitioners while accepting the terms of their fresh appointment joined on such post without raising any claim for the post. The orders in the case of one Buta Singh and Parkash Chand cannot be treated as precedents as no facts pertaining to the service rendered by them has been placed on record and therefore it is virtually impossible to make out a case of discrimination. Even otherwise even if it is accepted that Buta Singh and Parkash Chand have been granted the benefit as claimed by the petitioner, the same is against the settled proposition of law and therefore, no parity

can be claimed.

In view of the above, finding no merit in these petitions, I order
dismissal of the same.

No costs.

(DEEPAK SIBAL)
JUDGE

01.09.2015
rajeev