

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

LPA No. 30 of 2010

DATE OF DECISION : 01.07.2015

The State of Punjab and others

.... APPELLANTS

Versus

Dhruv Dev Singh and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. K.K. Gupta, Addl. A.G.,
for the appellants.

* * *

SATISH KUMAR MITTAL, J. (Oral)

The State of Punjab and its officers have filed this intra-court appeal under Clause X of the Letters Patent against the judgment dated 16.03.2009 passed by the learned Single Judge, whereby the writ petition (CWP No. 1948 of 1989) filed by Dhruv Dev Singh and Jai Raghumendan (respondents No.1 and 2 herein) was allowed and the appellants were directed to grant the benefit of initial date of appointment, i.e. with effect from 10.06.1974, with all consequential benefits to respondent No.2, as was granted to respondent No.1 vide order dated 04.08.1994 (Annexure P-8), within a period of three months from the date of receipt of a certified copy of the order.

Operation of the impugned judgment was stayed by this court on 07.09.2010, while passing the following order :-

“Learned State counsel has argued that the benefit of ad hoc service for the purpose of seniority cannot be granted, which is

*inferior to the date of regularization. According to the learned State counsel, grant of such benefit would be against the principles of law rendered by this Court in the case of **Saroj Gupta v. The Central Administrative Tribunal, Chandigarh Bench (2008) (4) S.L.R. 42** and the judgment of the Constitution Bench in the case of **Direct Recruit Class II Engg. Officer Assocn. v. State of Maharashtra, AIR 1990 SC 1607**.*

Mr. Suvir Sehgal, learned State counsel, has further submitted that Dhruv Dev Singh – respondent No.1, although granted benefit of ad hoc service for the purpose of seniority, stand already retired, whereas Jai Reghumendan – respondent No.2 is still working.

Despite service, no one has put in appearance on behalf of even of the respondents.

Admitted.

Operation of the judgment shall remain stayed.”

In spite of service of both the respondents, they did not appear at the motion stage.

Today, learned counsel for the appellants, on enquiry, has informed that as far as respondent No.1 is concerned, he has retired as Clerk on 31.03.2007 and vide order dated 04.08.1994 (Annexure P-8), benefits of his ad hoc service were granted to him and because of this fact, vide the impugned judgment passed by the learned Single Judge, the appellants were directed to grant the same benefits to respondent No.2. Learned counsel has further informed that during the pendency of this appeal, respondent No.2 has died. According to the learned counsel, as per the judgment of the Hon'ble Supreme Court in the case of **Direct Recruit Class II Engg. Officer Assocn. v. State of Maharashtra, AIR 1990 SC 1607** (supra), the benefit of ad hoc service cannot be granted towards seniority. However, the said period can be counted for the purpose of pensionary benefits, if the employee is

entitled for the same as per rules. Learned counsel submits that the benefit of ad hoc service towards seniority cannot be granted to respondent No.2 at this stage, when he has already expired. However, he submits that the legal heirs of respondent No.2 would be entitled for the pensionary benefits of respondent No.2 by adding his ad hoc service, if permissible under rules.

In view of the settled legal position that the benefit of ad hoc service towards seniority cannot be given, we modify the impugned judgment to the extent that the appellants are directed to consider the period of ad hoc service of respondent No.2 while calculating pension payable to his legal heirs, if pension is permissible to him.

Appeal is, accordingly, disposed of in the aforesaid terms.

(SATISH KUMAR MITTAL)
JUDGE

July 01, 2015
ndj

(HARINDER SINGH SIDHU)
JUDGE