

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

**C.W.P No. 4986 of 1994
Date of decision : 27.01.2016**

Jagdish Singh and ors.

....Petitioners

versus

State of Haryana & ors

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Sr. Advocate with
Ms. Rimpal Kadyan, Advocate
for the petitioners.

Mr. Gaurav Goel, AAG, Haryana

Mr M.S. Sindhu, Advocate
for respondent No. 3

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

RITU BAHRI , J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of certiorari for quashing order (P-6) and further prayer is for issuance of direction to the respondent that no recovery shall be effected from the petitioners.

Petitioners were appointed in the month of May, 1983 under the Municipal Committee-respondent No. 3 and are continuing

till date. They approached the Labour Court for redressal of their grievances when they were not treated like regular employee. Thereafter, they approached this Court by filing writ petitions with a prayer that they are entitled to same salary and allowances, as admissible to the regular employees, which were allowed by this Court on 11.04.1986 and 01.12.1987. Petitioners were governed by the Statutory Rules called the Haryana Municipal Service (Integration, Recruitment and Conditions of Service) Rules, 1982. Petitioners were granted additional increment w.e.f 01.07.1992 on completion of 08 years of service, in pursuance of decision taken by Haryana Government (P-4) but now the said benefit has been ordered to be withdrawn in pursuance of audit objection (P-6) and pay of the petitioners was reduced and recovery of Rs.687/- was effected from the salaries of each petitioner, without affording any opportunity of hearing to the petitioners. Further in pursuance of the decision taken by the Haryana Government, vide policy decision dated 08.02.1994, the department is not considering the case of the petitioners again treating them to be as regular employee.

The present writ petition was admitted on 22.04.1994 and recovery was ordered to be stayed.

Learned counsel for the petitioner submits that it is a settled law that once a benefit granted, cannot be withdrawn without

observing the principles of natural justice. Petitioners were not granted any opportunity of hearing.

Learned counsel for the petitioner further contends that the petitioners were appointed in the year 1993 and are continuing without any interruption from the date of their initial appointment and after completion of 240 days, they acquire the status of regular employee and before 01.06.1984, the petitioners had completed 240 days service and thus, they completed 08 years of service up to 01.07.1992 and were rightly granted one additional increment in view of the decision (P-4).

Reference at this stage can be made to a judgment of this Court in a case of ***Hanumant Singh vs. State of Haryana and others, 2008 (4) SCT 427*** whereby this Court held that ad hoc service is as good as work charges service followed by regularization. The distinction made between the two for the purpose of grant of additional increments on completion of 8/18 years of service is imaginary and does not stand the test of legal scrutiny. Ad hoc/work charged service followed by regular service has to be counted for the purpose of seniority and pension also. In para 22 of the judgment, it has been observed as under

"22. Therefore, in view of the above discussion, question No. 1, referred to above, stands answered against the petitioners whereas question Nos. 2 and 3 stand answered in favour of the petitioners and against the respondents and it is held as under :-

(a) ad hoc/work charged service followed by regular service shall not be counted for the purposes of grant of higher pay scale/benefit of Assured Career Progression Scheme on completion of 8/18 or 10/20 years of service.

(b) ad hoc/work charged service followed by regular service shall be counted for the purposes of grant of additional increment in the running scale on completion of 10/20 or 8/18 years of service.

(c) ad hoc service followed by regular service shall be counted for the purposes of pension and seniority.

Learned counsel for the respondents have not been able to cite any judgment contrary to the judgment given by learned counsel for the petitioner.

Applying the ratio of the above said judgment, the writ petition is allowed and order (P-6) is hereby quashed. The benefit of additional increment granted to the petitioners w.e.f 01.07.1992 is upheld and a direction is given to the respondents to implement the decision (P-9) whereby it was decided to grant the new standard pay scale to the employees who have completed 10 years of service. The respondents are directed to fix the salary of the petitioners after taking in to account the above said observations.

(RITU BAHRI)
JUDGE

27.01.2016

G Arora