

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3534 of 1996 (O&M)

Date of Decision: 02.05.2016

Subeg Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Alka Chatrath, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

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

RAJIV NARAIN RAINA, J.(Oral)

1. Indisputably, the petitioner was appointed as a Clerk on temporary basis for 89 days on June 06, 1990 in the pay scale of Rs.950-1800 against a vacant post in the office of Battalion Commander, Punjab Home Guards, Batala on request. The arrangement continued on the same pattern but with minor breaks in service. This position obtained till May 31, 1994 when his services were permanently discontinued. He has been out of service since then as interim stay was not granted.

2. He says that there were persons similarly situated who were employed as clerks at about the same time as him who approached this Court in CWP No.9962 of 1995 and connected cases against their disengagement which petitions were disposed of with a direction to the respondents to pass a speaking order on their grievance. Their cases were

however rejected by the competent authority in the respondent department. The rejection orders have attained finality. There is nothing on the record exhibiting the present status of those employees whose cases were rejected in a writ petition filed in 1996.

3. The stand in the written statement is that the petitioner does not fulfill the required qualifications and experience of the post of clerk in the department in view of the Government instructions dated April 22, 1992 which are placed at Annex R-1 with the written statement filed by the State. The instructions deal with regularization of ad hoc/temporary employees in the policy prevailing then in which the effective date was fixed at March 27, 1992 and, therefore, the petitioner had not completed three years of service prior to that date. Besides, the initial appointment of the petitioner as a Clerk was not through public employment notice/advertisement followed by regular direct recruitment process. The appointment was not in sync with constitutional imperatives in Article 14 & 16 of our Constitution. Therefore, it is not possible for this Court to issue any affirmative directions to the State to regularize the services of the petitioner in view of the law in Secretary, State of Karnataka vs. Uma Devi, (2006) 4 SCC 1.

4. I, therefore, find no merit in the petition and ordered it to stand dismissed. Besides, it is far too late in the day to consider request for regularization when the services were dispensed with in August 1994.

5. However, in case the employees who were similarly placed and whose cases were rejected consequent upon the directions in the writ petitions to dispose of their representations by speaking orders, have been regularized in service for any reason whatsoever, the petitioner would be

free to make an application in this petition for its revival and decision on merits.

(RAJIV NARAIN RAINA)
JUDGE

02.05.2016
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