

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5132 of 1997(O&M)

Date of decision:19.9.2016

Babu Lal Sharma & ors.

... Petitioners

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. Sandeep Yadav, Advocate,
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Subhash Ahuja, Advocate,
for respondents No.3 to 6.

RAJIV NARAIN RAINA, J.(Oral)

The claim for seniority in this petition has been rejected for two reasons. Firstly, due to the decision of this Court passed in CWP No.10746 of 1991 in case titled Bishan Chand & anr. v. State of Haryana & ors.), text placed at Annex P-13. In that case the employees of the Agriculture Department, Haryana approached this Court claiming seniority over the employees who had come to their department from Draught Prone Area Programme (DPAP) and Command Area Development Authority (CADA). The ex-employees of DPAP and CADA, the present petitioners, had been declared surplus before they were deployed in the respondent department as a measure of concession and were deputed on existing posts of the Agriculture Department to continue their employment and to draw salaries against those sanctioned cadre posts. The petitioners were absorbed by an order passed in 1990.

In this petition, they claim the benefit of seniority by counting their service rendered in DPAP & CADA which was held not permissible and the rights of the employees of the Agriculture Department, whose rights had been clouded were cleared by this Court in *Bishan Chand case*. Relief to the three petitioners would thus amount to negation of the judgment of this Court and therefore, the prayer for seniority for the period the service rendered in DPAP & CADA is not tenable and is liable to be rejected.

The petitioners' further claim based on benefits of the Assured Career Progression Scheme to employees similarly placed as the petitioners, who had also come on deputation from DPAP & CADA to the Agriculture Department claiming benefit of Assured Career Progression Scheme, as granted by the Civil Court in its decree passed on May 27, 2015 placed at page 110 of the paper-book and implemented by the Director, Agriculture Haryana, Panchkula is also not found tenable. This Court has serious doubts as to the character of the order passed on May 27, 2015 by the civil court to apply to other cases but we need not go into the issue, since on the first point the writ petition has to be dismissed. Even assuming that ACP benefits were admissible to the petitioners by counting service rendered in DPAP & CADA, it would not follow sequitur that they would automatically be entitled to seniority as well to trample on the rights of the existing members of the department who were members of the service in the agriculture department on the date when the petitioners were absorbed in 1990. Mr. Subhash Ahuja appearing for the non-official respondents points out yet another grave flaw in this petition that all the persons likely to be affected by any order

passed by the Court on seniority have not been impleaded as parties.

There is merit in this argument and therefore, I would commend the dismissal of this petition on all scores.

Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

19.09.2016
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>