

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

**CWP No.9922 of 2013 (O&M)
Decided on : 21.04.2016**

Rupinder Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.G.S.Bajwa, Advocate,
for the petitioner.

Mr.L.S.Virk, Addl., AG., Punjab.

G.S. Sandhawalia , J. (Oral)

The petitioner seeks a writ in the nature of certiorari quashing the communication dated 21.4.2009 (Annexure P-9) issued by respondent No.2 and 25.10.2012 (Annexure P-15) whereby her claim for counting her *ad hoc* service towards the grant of selection grade service has been rejected.

A writ in the nature of mandamus is also prayed for for considering the said period, i.e., w.e.f. 16.1.1993 to 23.12.1994 towards the total length of service for all consequential benefits.

The reason for denial on behalf of the respondents is that there is a gap in each service period and the total *ad hoc* period is 2 months 13 days which is required to be regularized.

The case of the petitioner is that she was appointed on *ad hoc* basis as a Lecturer with the Government College, Ropar-

respondent No.3 on *ad hoc* basis on 9.1.1993 (Annexure P-3) for a period not exceeding 89 days and joined on 16.1.1993. The said appointment was extended from time to time by putting a notional break of one day or so till her regular appointment was made on the same very basis with effect from 24.12.1994 vide letter dated 23.12.1994 (Annexure P-6). She had also been allowed increments to be counted from the date of her initial appointment. However, her claim for counting *ad hoc* period towards giving the selection grade service has not been counted. The specific case of the petitioner is that similarly situated persons have been given the benefit of counting their *ad hoc* service to their regular service but the said benefit has been withheld from the petitioner.

In paragraphs 12 and 13, it is averred that one similarly situated Lecturer namely Mrs.Kamaljit Kaur Ahluwalia who was also appointed as a Lecturer in Zoology, Government College, Faridkot on *ad hoc* basis with effect from 20.4.1993, was also appointed on regular basis with effect from 27.12.1994. The said Lecturer had also been given the benefit of selection grade which the petitioner has been denied as per order dated 31.7.2000 (Annexure P-7). Learned counsel for the petitioner has also relied upon the provisions of the UGC Notification dated 25.12.1998 which deals with counting of past service towards regular service to contend that the *ad hoc* service of more than one year duration can be counted for the purpose of Senior Scale/Selection Grade.

The State in its written statement has admitted that the said

instructions have been adopted by the State Government vide letter dated 5.12.2006, however, it has been pleaded that a minimum of one year *ad hoc* service without any break is required for release of Senior/Selection grade. The petitioner had only 2 months and 13 days of *ad hoc* service preceding her regular appointment which cannot be counted for the purpose of granting selection grade.

The issue of delay is also projected on the ground that the first order is dated 21.4.2009 which was never challenged. However, the contents of paragraphs 12 and 13 are not denied wherein the petitioner has raised the issue of equality and pointed out that similarly situated persons had been granted the said benefit.

A perusal of the impugned order dated 21.4.2009 would go to show that it is based on misreading of the period for which the petitioner is seeking for the purpose of grant of selection grade. The details of her appointment on *ad hoc* service as per the abovesaid order would go to show that from 16.1.1993, she was appointed for a period of 89 days repeatedly by giving a maximum gap ranging from 3 to 5 days. The details of the gaps are mentioned as under : -

S.No.	Gap Period
1.	16.1.1993 to 14.4.1993
2.	16.4.1993 to 13.7.1993
3.	15.7.1993 to 11.10.1993
4.	13.10.1993 to 9.1.1994
5.	11.1.1994 to 9.4.1994
6.	13.4.1994 to 9.7.1994
7.	12.7.1994 to 9.10.1994
8.	11.10.1994 to 23.12.1994

Thus, from the perusal of the above, it would go to show that the petitioner continuously worked from January, 1993 to December, 1994 and was, thereafter given a regular appointment vide order dated 23.12.1994 (Annexure P-6) on the recommendations of Punjab Public Service Commission. The reasoning given which is that the total *ad hoc* period is 2 months and 13 days is without any basis. That period is only for the last appointment on *ad hoc* basis w.e.f. 11.10.1994 to 23.12.1994. The respondents have failed to take into consideration that the petitioner was almost for two years i.e. from January, 1993 to December, 1994 working on *ad hoc* basis with nominal break in service. It is not disputed that as per Annexure R-1 itself, the instructions of the University Grants Commission (UGC) have been adopted for counting of *ad hoc* service rendered before regular service for the purpose of granting the benefit of Senior scale/selection grade to the benefits of the condition stipulated by the UGC. The said regulations read as under : -

“8.0.0. Counting of past service

Previous service, without any break as a Lecturer or equivalent, in a university, college, national laboratory, or other scientific organization, e.g. CSIR, ICAR, DRDO, UGC, ICSSR, ICHR and as a UGC Research Scientist, should be counted for placement of lecturer in Senior Scale/Selection Grade provided that :

8.1.0 The post was in an equivalent grade/scale of pay as the post of a Lecturer;

8.2.0. The qualifications for the post were not lower than the qualifications prescribed by the UGC for the post of Lecturer.

8.3.0. The candidates who apply for direct recruitment should apply through proper channel;

8.4.0 The concerned Lecturers possessed the minimum qualifications prescribed by the UGC for appointment as Lecturers;

8.5.0 The post was filled in accordance with the prescribed selection procedure as laid down by the University/State Government/Central Government/ Institution's regulations;

8.6.0 The appointment was not ad-hoc or in a leave vacancy of less than one year duration. Ad-hoc service of more than one year duration can be counted provided-

(a) The ad-hoc service was of more than one year duration;

(b) the incumbent was appointed on the recommendation of duly constituted Selection Committee; and

(c) the incumbent was selected to the permanent post in continuation to the ad-hoc service, without any break”

A perusal of the above would also go to show that the previous service which is without any break has to be counted for placement of Lecturer in Senior Scale/Selection Grade and the *ad hoc* service of more than one year duration can be counted if the person was appointed on the recommendations of duly constituted selection committee and there is no break from *ad hoc* service to regular service. The respondents themselves are responsible for appointing the petitioner with nominal break of 2 to 5 days for eight separate periods during the currency of 2 years and, therefore, the petitioner cannot be put a disadvantage on this aspect. There is no long break as has been mentioned in the impugned order and the period of 2 months and 13 days is the period of last *ad hoc* appointment.

Accordingly, in view of the above instructions, the

petitioner is entitled to the said benefit especially in view of the fact that similarly situated person has already been granted the benefit of *ad hoc* service vide Annexure P-7 by respondent No.2 and the petitioner is also entitled for the same treatment keeping in view the provision of Article 14 of the Constitution.

Accordingly, the present writ petition is allowed and impugned orders dated 21.4.2009 (Annexure P-9) and 25.10.2012 (Annexure P-15) are quashed. A writ of mandamus is issued to respondent No.2 to grant the necessary benefits to the petitioner within a period of 2 months from the date of receipt of a certified copy of this order and make the payment of arrears.

April 21, 2016
Paritosh Kumar

(G.S. SANDHAWALIA)
JUDGE