

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

CWP No.21504 of 2012 (O&M)

Date of Decision:21.02.2017

Ishwar Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Naveen S. Bhardwaj, Advocate for the petitioner.

Mr. Harish Rathee, Sr. D.A.G. Haryana.

Mr. Devinder Singh, Advocate for respondent No.2.

P.B. BAJANTHRI J. (Oral)

The petitioner was appointed on ad-hoc basis on 17.5.1986 as a Peon in the respondent-Bank. His services were confirmed 1.1.1993. The respondents-Bank have noticed that regularization of the petitioner w.e.f. 1.1.1993 is in the absence of statutory provision. Consequently, show cause notice was issued to the petitioner as to why the date of confirmation should not be altered from 17.5.1986 to 1.1.1993. The petitioner is stated to have submitted his reply. The respondents after considering the reply proceeded to pass order dated 29.8.2012 by altering the date of confirmation in the post of Peon w.e.f. 1.1.1993. Thus, the present petition.

Learned counsel for the petitioner submitted that the petitioner was appointed as a peon on 17.5.1986 on ad-hoc basis. There was proposal for terminating his services. Thus, the petitioner had approached the competent courts. During the pendency of the litigation, the respondents have placed it on record that the petitioner services have been confirmed on

1.1.1993. In the year 2012, they issued show cause notice in respect of entry into service of the petitioner from 17.5.1986 and confirming the same from 1.1.1993. The reply was considered by the respondents.

Learned counsel for the petitioner further submitted that the petitioner is entitled for all service benefits from 17.5.1986.

Heard learned counsel for the parties.

The petitioner has not placed on record any material to show that under which statutory provision/rule that ad-hoc services can be counted for the purpose of extending service benefits. In the absence of statutory provision for regulating the intervening period of ad-hoc services and confirmation and it relates back to the date of initial appointment on ad-hoc basis, the same cannot be extended to the petitioner in the present case having regard to the fact that there are no statutory provision. Thus, there is no infirmity insofar as confirmation of petitioner from 1.1.1993. However, ad-hoc service from 17.5.1986 to 1.1.1993 if it is countable only for pension, the respondents may consider.

Petition stands dismissed.

At this stage, learned counsel for the petitioner submitted that his initial appointment was on ad-hoc basis which is in accordance with the rules. If the ad-hoc service is in accordance with the rules, it is restricted to only ad-hoc. There cannot be change from ad-hoc basis to regular unless and until Articles 14 and 16 of the Constitution is complied by the competent authority i.e. for regular recruitment to the post of Peon. In other words if another ad-hoc employee who is working in another service is not in a position to know whether petitioner's appointment would be ad-hoc and it would be regularized from the date of ad-hoc. The mode of appointment

on ad-hoc and permanent are two different concept and for two different situations.

21.02.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No