

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

212

CWP No.16149 of 2015

Date of decision: 03.08.2017

Kailash Chand & another

...Petitioners

Versus

State of Haryana & others

...Respondents

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

Present: Mr.P.K.Sachdev, Advocate, for the petitioners.

Ms.Shruti Jain Goyal, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

Petitioners seek the benefit of the entire service including the seniority from the date of their initial appointment as Steno-Typists on the ground that they were appointed by the competent authority through one of the proper agencies of the respondents, i.e., the Employment Exchange and followed by continuous and uninterrupted regular appointments after their ad-hoc appointments by the competent authority.

A perusal of the order dated 21.04.1986 (Annexure P-1) would go on to show that petitioner No.1 was appointed by respondent No.3, purely on ad-hoc basis as a Steno-Typist for a period of 6 months till the arrival of the approved candidates by the Subordinate Selection Board. The said order was, thereafter, confirmed by the Transport Commissioner on 10.02.1988 (Annexure P-2) wherein it was mentioned that the petitioners are sponsored candidates from the Employment Exchange and had been appointed from 23.04.1986 in case of petitioner No.1 and 01.05.1986 in the case of petitioner No.2. Their services were regularized w.e.f. 01.01.1991, after they had completed 2 years of service, as on 31.12.1990, vide order dated 23.06.1994 (Annexure P-3). The said order was, thereafter, modified on 09.08.2004 (Annexure P-4), whereby their services were regularized w.e.f. 30.09.1988 instead of 01.01.1991.

Petitioners took no action, thereafter, for their alleged grievances that their ad-hoc period from 23.04.1986/01.05.1986 should be counted for the purposes of seniority. Only on 23.01.2014, for the first time, a legal notice (Annexure P-5) was served, claiming the benefit of the ad-hoc service towards other service benefits. Resultantly, the present writ petition was filed.

The stand of the State is that the petitioners are not entitled for counting of their ad-hoc services from the date of their initial appointment and it has relied upon the judgment of the Apex Court in *State of Haryana Vs. Vijay Singh 2012 (8) SCC 633* wherein it was held that High Court was not correct by directing that the ad-hoc period is to be counted for the purposes of seniority and the Division Bench judgment in CWP-2409-2008 titled *Vijay Singh & others Vs. State of Haryana & others*, decided on 18.12.2008, relied upon by the petitioners' counsel was set aside.

The law regarding the aspect of grant of ACP by counting of the ad-hoc period, stands settled in the subsequent judgment also in *State of Haryana & others Vs. Sita Ram & others 2013 (16) SCC 677*, wherein reference was made to the earlier judgments in *State of Haryana Vs. Haryana Veterinary and AHTS Association (2000) 8 SCC 4* and *Punjab State Electricity Board Vs. Jagjiwan Ram (2009) 3 SCC 661* and it was held as under:

“17. We reiterated that even though Ravinder Kumar's case was de-linked from the batch of matters decided vide judgment in *State of Haryana v. Haryana Veterinary and AHTS Association* (supra) and was independently decided, the same cannot be relied upon for grant of benefit of ACP scales under the 1998 Rules or time bound promotional scales

or additional increments by counting work charge or ad-hoc service where the rules/scheme provide that the employee must have rendered regular service for a particular period.

18. On the basis of the above discussion, we hold that the Division Benches of the High Court committed an error by directing the appellants to treat work charge service of the respondents as part of regular service for the purpose of Rule 5(1) and (2) of the 1998 Rules.

19. In the result, the appeals are allowed, the impugned order are set aside and the writ petitions filed by the respondents are dismissed.

Appeal allowed.”

Thus, the claim which has now been made, is without any basis. Accordingly, in view of the settled position of law, the present writ petition stands dismissed.

03.08.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No