

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

**CWP No. 16199 of 2016
DECIDED ON: NOVEMBER 17, 2017**

JAGJIT SINGH SIDANA

.....PETITIONERS

VERSUS

STATE OF PUNJAB & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vijay Sharma, Advocate
 for the petitioner.

JASPAL SINGH, J (ORAL)

The relief claimed through the instant petition put forth by the petitioner is for counting his ad-hoc service rendered by him towards qualifying service for pension and retiral benefits FURTHER, petitioner is seeking the quashing of letters dated 12.03.2007 (P-2), 16.03.2016 (P-14) and 09.06.2016 (P-17) vide which his afore-said claim has been rejected.

2. Undoubtedly, petitioner was appointed as Medical Officer on ad-hoc basis by respondent No.2 for a period of six months i.e. w.e.f. 25.02.1971 to 18.02.1974 and on accepting the terms and conditions envisaged in the appointment letter dated 03.02.1971 issued by respondent No.2 he joined as

such . Thereafter, his services were extended from time to time. However, the benefit of counting of ad-hoc service rendered by the petitioner w.e.f. 25.02.1971 to 18.02.1974 has been declined by the respondents on account of the reason that neither he was appointed through employment exchange nor by open advertisement. Further that since the petitioner was not appointed through employment exchange or by open advertisement, his case for counting his service rendered by him on adhoc basis towards qualifying service for the purpose of pensionary benefits is not covered under the instructions dated 26.10.1995 issued by the Government of Punjab.

3. The contention of learned counsel for the petitioner is that admittedly, petitioner worked on adhoc basis, which was followed by regular employment. There was no interruption in the two or more spells of adhoc service who otherwise worked on full time basis. No doubt the petitioner was appointed as Medical Officer initially for a period of six month but his services were extended from time to time by the respondents without any break. The services of the petitioner were regularised as Medical Officer by the respondents on the basis of recommendations made by Punjab Public Service Commissioner (for short 'Commission') w.e.f. 05.02.1974. No fault can be attributed to the petitioner who has since been regularized on the recommendations made by the Commission.

4. Thus, the only question which requires for determination in the case in hand whether the adhoc service rendered by the petitioner followed by regularization is to be counted towards pensionary benefits and the answer to this question is in the affirmative. As by now the afore-said question is no more

res integra. Such a question arose before a Division Bench of this Court in the case of **Hanumant Singh vs. State of Haryana; 2008 (4) SCT 427**, in which it was categorically observed that adhoc service rendered by a regular employee preceding his regular appointment, is to be counted. Similarly, in another case rendered by another Division Bench of this Court in CWP No. 11212 of 1995, decided on 03.07.2013 in case **Suresh Kumar Gupta and others vs. State of Haryana and others; 2008 (4) RSJ 756** wherein, disputed of counting of ad hoc service rendered by various petitioners prior to their regularization has been settled and credit for pay fixation etc. have been given by counting their ad hoc service towards pensionary benefits. To the same effect are **Shanno Devi vs. State of Haryana and others; 2013 (2) PLR 773 (P&H)** and **Hardip Singh and another vs. State of Punjab and others; 2004 (2) SLR 95 (DB) (P&H)** as well as in a recent decision of this Court rendered in CWP No. 17504 of 1995, decided on 09.10.2013, titled as **Megh Raj vs. State of Haryana; 2014 (2) SCT 394**, all the afore-said judgments were subsequently relied upon by this Court.

5. In CWP No. 6671 of 2009, decided on 26.04.2010, titled as **Dr. Bharat Bhushan vs. State of Punjab and others**, a Division Bench judgment of this Court rendered in CWP No. 12179 of 2009, titled as **Dr. Anil Kumar Saluja vs. State of Punjab and others** is relied upon by this Court, while observing that there is no impediment in holding that the period of ad hoc service rendered previously has to be treated as qualifying period for pension. It would be appropriate to re-produce the relevant paragraph of the Division Bench judgment delivered in Dr. Anil Kumar Saluja's case (supra)

“It is well settled that adhoc/work charged or any other qualifying

service for the purpose of pension. A full Bench judgment of this Court in the case of Kesar Chand v. State of Punjab 1988 (2) PLR 23 declared Rule 3.17 of the Rules as ultra vires which exclude the period of work charge and adhoc service from the definition of expression 'qualifying service'. The respondent-State has now added Rule 3.17 (b) which provides that service rendered on the establishment interrupted or continuous has to be counted as qualifying service. Therefore, there is no impediment in holding that the period of adhoc service rendered by the petitioner from 04.01.1988 to 30.11.1993 has to be treated as qualifying period for pension. Once it is so, then it has to be given the same meaning for rule 3 of the Rules.:

6. Adverting to the facts of the case in hand the petitioner undoubtedly joined the services with respondent No.2 as Medical Officer on ad hoc basis on 25.02.1971 for a period of six months but his services were extended from time to time by respondents and subsequent thereto, his services were regularized on the basis of recommendations made by Commission. Therefore, there is no impediment in giving direction to respondents to count the period of ad hoc service rendered by the petitioner towards qualifying service for the purpose of pensionary benefits. As far as the ground taken by the respondents No.1 to 3 that the appointment of the petitioner was not made by way of open advertisement or through employment exchange is concerned, except bald assertions in the written statement nothing has been brought on record by the respondents. Moreover, petitioner has served for a sufficient long time on ad hoc basis that too, as Medical Officer and subsequently, his services were regularized. No documentary evidence has also been brought on record by the

respondents that services of the petitioner was against a leave vacancy. For a simple reason that initially appointment was made on ad hoc basis for a period of six months, which was extended from time to time does not *ipso facto* mean that it was back door entry of the petitioner. Moreover, in the facts and circumstances narrated above much reliance cannot be placed upon the assertions made by the respondents in this regard.

7. As an upshot of afore-said discussion, instant petition is allowed and impugned orders/letters dated 12.03.2007 (P-2), 16.03.2016 (P-14) and 09.06.2016 (P-17) whereby, the claim of the petitioner for counting his ad hoc service for the purpose of qualifying service towards pensionary benefits was rejected, are quashed. Further, respondents are directed to count the period of ad hoc service rendered by the petitioner towards qualifying service for pension. The same be calculated and disbursed to him within three months from the date of receipt of certified copy of this order. In case of non-compliance of afore-said direction, petitioner shall be at liberty to have recourse to other remedies available to him under law including to approach this Court.

NOVEMBER 17, 2017

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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No