

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP-21485-2014
Date of Decision: January 30, 2017

Union of India and others

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench, and others

.....Respondents

2. CWP-447-2015

Union of India and others

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE HARI PAL VERMA**

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.P.C.Goyal, Advocate
for the petitioners.

Mr.Brajesh Mittal, Advocate
for respondent Nos.2 to 10.

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SURYA KANT, J.

This order shall dispose of the above captioned writ petitions as the point in issue involved in both the cases is common in nature. For the sake of convenience, the facts are being extracted from CWP-21485-2014.

The Union of India and its authorities in the Ministry of Defence has laid challenge to the order dated 18.09.2013 passed by the

Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'the Tribunal') whereby services rendered by the respondents on 'daily wages/casual basis' have been directed to be included in the regular service for the purpose of grant of financial upgradation.

The Tribunal has passed a summary order, for the counsel for the parties agreed that the matter could be disposed of in terms of decision dated 02.08.2013 passed by the Tribunal in another OA No.1439/PB/2012 (**Ravi Kumar Saraf and others vs Union of India and others**).

Ravi Kumar Saraf's case (supra), was in turn allowed on the basis of another judgment of the Tribunal duly upheld by the High Court of Bombay in W.P.(L) No.1202 of 2012 (**Union of India and another vs Karan Anant Purao and other**) decided on 24.07.2013. Special Leave Petition preferred against the said order was dismissed by the Hon'ble Supreme Court and it has attained finality.

An identical order passed by the Tribunal was challenged by the petitioner-authorities before this Court in CWP No.22139 of 2015 (**Union of India and others vs CAT Chandigarh and others**), and a Division Bench in which one of us (Surya Kant, J.) was a member, dismissed the same on 23.05.2016 observing as follows:

“ (6) It appears to us that since the claim of similarly placed employees, which was accepted by the Tribunal's co-ordinate Bench at Mumbai, has attained finality and they have got the financial upgradation under ACP/MACP by taking into account their service from the date(s) of initial engagement, any different view by this Court would unwittingly lead to discrimination amongst the similarly placed employees.

(7) Besides that, the Tribunal has rightly on consideration of the facts held that the initial engagement of respondent was on being sponsored by Employment Exchange and their services were subsequently regularized by the respondents. Since it was not a case of back-door entry as they were appointed through competitive process, such appointment cannot be termed irregular.

(8) The Bombay High Court relied upon the decision of the Hon'ble Supreme Court in *State of Maharashtra & Ors. vs. Uttam Vishnu Pawar (2008) 2 SCC 646*, taking note of its previous decisions in the case of *Dwijen Chandra Sarkar & Anr. vs. Union of India & Ors., (1999) 2 SCC 119*, *Union of India vs. V.N. Bhat (2003) 8 SCC 714*, *APSEB vs. R.Parthasarathi (1998) 9 SCC 425*, *Scientific Advisor to Raksha Mantri vs. VM Joseph (1998) 5 SCC 305* and *Renu Mullick vs. Union of India (1994) 1 SCC 373* to hold that the very purpose of ACP/MACP is to relieve frustration on account of stagnation and the scheme does not involve the actual grant of promotional post to the employees but merely monetary benefits in the form of next higher grade subject to fulfillment of qualifications and eligibility criteria. Thus, the benefit of service rendered by the respondents before their regular absorption, if counted, neither it affects the seniority of directly recruited other members of the cadre nor it affects them in terms of the promotional aspirations. The respondents rather would continue to retain the same status except monetary benefits admissible in the higher grade.”

The above cited order has been followed by this Court in later decision also.

In view of the fact that the controversy has already been settled

petitioners themselves, we see no reason to take a different view.

Consequently and for the reasons assigned in the cited order,
the instant writ petitions are dismissed.

(SURYA KANT)
JUDGE

January 30, 2017
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(HARI PAL VERMA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |