

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

CWP No.24523 of 2014

Date of Decision:20.04.2017

Jugal Kishore

... Petitioner

Vs.

State of Haryana and others

... Respondents

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

Present : Mr. P.K. Chugh, Advocate for the petitioner.

Mr. R.K. Doon, A.A.G. Haryana.

Mr. Rajvir Singh Sihag, Advocate for respondent No.2.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of order dated 10.10.2013 (Annexure P-6) by which his claim for seniority w.e.f.4.6.1986 in the cadre of Land Valuation Officer has been rejected on the score that seniority list of Land Valuation Officer was issued in the year 1995 and 2010 against which the petitioner has not filed any representation or objection. Consequently, It was stated that in view of the Supreme Court decision reported in AIR 2010 (SC) 706, the petitioner is not entitled for seniority from 1986. He is entitled for seniority only w.e.f. 8.9.1990 which has already been granted to him.

Learned counsel for the petitioner submitted that the petitioner even though appointed on ad-hoc basis as Land Valuation Officer but at the same time in the month of June 1986 process of selection was made to the post of Land Valuation Officer in which the petitioner was one of the candidate for the recruitment. The said recruitment process was subject matter of litigation in CWP No.4000 of 1986. The same was filed by respondent No.3 and the petition was allowed in favour of respondent No.3.

Consequently, the petitioner was also extended the benefit of regular appointment w.e.f. 4.6.1986 as is evident from the impugned order dated 10.10.2013 (Annexure P-6). Therefore, the petitioner has cause of action in the year 2013 for the purpose of seeking benefit of seniority from 4.6.1986 i.e. subsequent to issuance of seniority list in the year 1995 and 2010. Therefore, the petitioner has no cause of action in the year 1995 and 2010 as he has not been declared as a regular employee from 4.6.1986. Therefore, the stand of the respondents that the petitioner is not entitled for seniority from 4.6.1986 since the seniority list attained finality in the year 1995 and 2010 is not tenable having regard to the cause of action accrued to the petitioner in the year 2013 i.e. subsequent to notifying the notification of Land Valuation Officer.

Per contra, learned counsel for the respondent No.2 submitted that petitioner was appointed on ad-hoc basis in the month February 1986. His service were regularized on 8.9.1990. Therefore, the service rendered by the petitioner on ad-hoc basis from February 1986 to 7.9.1990 cannot be counted for the purpose of seniority in view of Rule 13.3 (d) which states that the period of ad-hoc service rendered by an employee and followed by regular appointment shall not be counted towards seniority and promotions. Thus, the petitioner is not entitled for the relief sought in the present case and no interference is called for.

Heard learned counsel for the parties.

Short question for consideration in the present petition is whether the petitioner is entitled for seniority w.e.f. 4.6.1986 or not?

Undisputedly, the petitioner was initially appointed on ad-hoc basis in the month of February 1986. In the month of June 1986, the official

respondents notified the vacancy of Land Valuation Officer. The petitioner and 3rd respondent were candidates for the recruitment. Process of recruitment was cancelled. Subsequently, it was a subject matter of litigation before this Court by 3rd respondent and writ petition was allowed in favour of 3rd respondent. 3rd respondent was treated as regular holder of the post of Land Valuation Officer w.e.f. 18.11.1986. On par with 3rd respondent, the petitioner was also extended the benefit of process of recruitment and he has been treated as regular employee w.e.f. 4.6.1986 which is stated in the impugned order dated 10.10.2013. Thus, the petitioner is entitled for seniority w.e.f.4.6.1986. The reasons assigned in the impugned order that the seniority list of Land Valuation Officer has attained finality in the year 1995 and 2010, therefore, the petitioner has no right to tinker with the seniority list which was finalized in the year 1995 and 2010 cannot be accepted for the reasons that the petitioner has been treated as regular employee w.e.f 4.6.1986 only in the year 2013. Thus, the cause of action accrued to the petitioner only in the year 2013.

Accordingly, impugned order dated 10.10.2013 (Annexure P-6) is set aside. The respondents are directed to count the petitioner's service rendered as Land Valuation Officer as a regular w.e.f. 4.6.1986 and extend all the benefits like promotion on par with respondent No.3. The above exercise shall be completed by the concerned respondent within a period of three months from today.

Petition stands allowed.

20.04.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No