

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1778-2014 (O&M)

Date of Decision: May 03, 2017

The State of Haryana

.....Appellant

Versus

Meg Raj and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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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.Deepak Balyan,Addl.Advocate General, Haryana
for the appellant.

Mr.Sanjeev Sharma, Advocate
for respondent No.1.

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SURYA KANT, J.

This Letters Patent Appeal has been preferred by State of Haryana against the order dated October 09, 2013 whereby learned Single Judge has granted the benefit of *ad hoc* service towards 'increment' and 'pension' in favour of the first respondent.

[2] The facts are broadly admitted.

[3] The first respondent joined the Rehabilitation Department as a Clerk on 30.09.1974 on regular basis after his name was recommended by Subordinate Staff Selection Board. Prior thereto, he had worked as a Clerk on *ad hoc* basis in different departments of the State Government, like,

starting from 04.07.1968 to 31.12.1973. The *ad hoc* service was not on continuous basis as there were breaks ranging to more than one month or so.

[4] The respondent while still in service represented the authorities for grant of benefit of *ad hoc* service towards annual increments on his appointment on regular basis and also to add that service towards 'qualifying service' for the purpose of pension on retirement. Learned Single Judge has accepted both the claims primarily on the basis of some decisions of this Court as also on account of discrimination as during the course of arguments two instances of Satyavir Singh and Smt.Prabha Arora were referred to, alleging that these two employees were granted the benefit of *ad hoc* service for both the purposes.

[5] We have heard learned counsel for the parties and gone through the record.

[6] The benefit of *ad hoc* service towards 'qualifying service' for pension is an undisputable proposition. There are catena of decisions referred to by the learned Single Judge in para 14 of his order where such claim has been accepted by this Court. On first principle also, the benefit of *ad hoc* service towards 'qualifying service' has to be accepted in view of Rule 3.17-A of the Punjab Civil Services, Chapter 3, Volume II as applicable to State of Haryana. The Rule provides that "all services rendered on establishment, interrupted or continuous followed by confirmation shall be treated as qualifying service". The only exception given under the Rule is that the service paid from contingencies or rendered on part-time basis or on casual or daily wage basis shall not be counted.

excluded from qualifying service but such a provision contained in the Rule was struck down by a Full Bench of this Court in **Kesar Chand vs State of Punjab and others** 1988 (2) PLR 223 (FB).

[7] In this view of the matter, the direction issued by the learned Single Judge to count the *ad hoc* service towards qualifying service for pension calls for no interference. However, learned Single Judge has also directed that benefit of *ad hoc* service be extended towards grant of annual increment. Acceptance of such a claim appears to be contrary to the dictum of the Hon'ble Supreme Court in **State of Haryana and others vs Sita Ram and others** 2013(16) SCC 677. There the Apex Court considered as to whether the work-charge/ *ad hoc* service can be counted for the purpose of grant of ACP scales/increments etc. After detailed discussion, and on consideration of the case law as well as Memorandums dated 15.03.2002 and 27.06.2002 issued by the State Government, the Hon'ble Supreme Court concluded as follows:-

“17. We reiterate 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.” [emphasis by us]

[8] Since the benefit of *ad hoc* service towards increment/additional increments has been denied in the cited decision, the order passed by learned

Single Judge being contrary, is liable to be modified to that extent.

[9] In the light of the above discussion, the appeal is allowed in part. The order passed by learned Single Judge is modified and it is directed that the first respondent shall be entitled to the benefit of *ad hoc* service towards qualifying service for pension and other retiral benefits. The necessary relief shall be granted to the first respondent within a period of three months from the date of receipt of a certified copy of this order.

**(SURYA KANT)
JUDGE**

May 03, 2017
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**(SUDIP AHLUWALIA)
JUDGE**

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