

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

CWP No.20689 of 2013 (O&M)

Date of decision: 23.03.2018

Harbans Singh and another

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Manpreet, Advocate for the petitioner(s).

Ms. Sudeepti Sharma, Addl. A.G., Punjab.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioners seek issuance of directions in the nature of mandamus to the respondents to regularize their services from their initial date of ad hoc appointment and consequently to grant all service benefits including seniority since the appointment of the petitioners on ad hoc basis.

It is contended that both the petitioners were appointed as Section Officer (mech.) on ad hoc basis on 25.10.1976 and 10.01.1978 respectively. Their services were regularized as such on 05.11.1980. The petitioners have unblemished service record to their credit. The post of Section Officer were re-designated as Junior Engineer and again re-designated as Assistant Engineer. As per instructions dated 05.01.1994 issued by the State of Punjab, the ad hoc services of all the employees who are in service prior to 01.09.1989 was to be counted for the purpose

of fixation of seniority, selection grade, proficiency step up and all other consequential benefits. The petitioners had earlier filed CWP-5152-2012 (Annexure P-9) before this Court wherein the respondents were directed to consider and decide the legal notice dated 11.02.2013 served by the petitioners upon the respondents. Thereafter, the respondent Department has considered and declined the claim of the petitioners, vide impugned order dated 16.04.2013 (Annexure P-10). Learned counsel relying upon CWP-5592-1989 titled as **Chambel Singh** Vs. **State of Haryana**, 1995 (1) PLR 152.

On the other hand, the stand of the respondents is that the service rendered by the petitioner on ad hoc basis cannot be counted towards seniority. Learned State counsel relies upon **State of Punjab and others** Vs. **Surjit Kaur**, 2011(3) SCT 328 and **Punjab State Electricity Board and others** Vs. **Jagjiwan Ram and others**, 2009(3) SCT 92 to contend that the ad hoc service not to be counted for the purpose of seniority.

Heard, learned counsel for the parties and perused the record.

The sole question to be decided in the present writ petition is that whether the ad hoc service rendered by the petitioners could be counted towards seniority or not is no longer res integra as Hon'ble the Supreme Court in Jagjiwan Ram's case (supra) has candidly held that the service rendered on ad hoc basis cannot be counted towards seniority. Further a Division Bench of this Court in Surjit Kaur's case (supra) has held as under:-

“A perusal of the aforesaid clarification would show that the period of 8 or 18 years is to be reckoned from the date of appointment on regular service and any service rendered on adhoc basis is not to be counted for the purposes of grant of proficiency step-up(s). Even otherwise, the view of Hon'ble the Supreme Court as laid down in the case of State of Haryana v. Haryana Veterinary and Ahts Association and another (2000) 8 SCC 4 is absolutely clear that it is only regular service which could be counted for the purpose of grant of ACP scale. However, the learned Single Judge has placed reliance on a judgement of Hon'ble the Supreme Court rendered in the case of State of Haryana v. Deepak Sood (Civil Appeal No. 4446 of 2008 decided on 15.7.2008) to hold otherwise. A perusal of the judgement in Deepak Sood's case (supra) would show that in that case, there was no question of reckoning of adhoc service for the purposes of grant of ACP grade before the Court and the only question was whether past service rendered with the Municipal Council would count for grant of ACP grade when the employee has been appointed on transfer basis with the Government. Therefore, the aforesaid judgement has no application to the facts of the case in hand.”

In view of the above, this Court is of the opinion that the service rendered by the petitioners on ad hoc basis is not to be counted towards seniority. The impugned order dated 16.04.2013 (Annexure P-10) has been rightly passed by the respondent Department. Consequently, the instant petition is dismissed.

23.03.2018
sumit.k/gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No