

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18518 of 2015

Date of Decision: 24.08.2018

Mahender Singh and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Parveen Kumar Rohilla, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioners' claim counting their ad hoc service prior to appointment as SS Master/DPE on regular basis on different dates. The prayer cannot be accepted as such ad hoc service does not fall within the parameters laid down by the Division Bench of this Court in LPA No.589 of 2015 and connected appeals decided on October 27, 2016 in turn relying on a previous decision rendered in LPA No.1743 of 2016 (Harpal Singh and others v. State of Haryana and others) where the issue has been elaborately considered and it has been held that in some exceptional situations only the benefit of ad hoc service towards seniority can be admissible. This Court held in *Harpal Singh* as follows:-

“(15) A brief reference to the above-cited case-law should leave no room to doubt that:-

(a) Where the ad hoc appointment was made by an authority not authorized to make such appointment under the Rules, such adhoc service cannot be counted for fixation of the seniority;

(b) Even if the ad hoc appointment is made by the competent authority but if such appointment has not

been made on the recommendations of the recruiting agency prescribed under the Rules, the benefit of ad hoc service cannot be granted towards seniority;

(c) Save where the Statutory Rules expressly grants the benefit of ad hoc service towards seniority after appointment on regular basis, the seniority has to be fixed as per the provisions of the Rules;

(d) Where ad hoc appointee has been subsequently selected for regular appointment by the Public Service Commission/Staff Selection Commission/Board, such appointee cannot seek benefit of ad hoc service towards seniority except in category (c) above and in such a case his seniority has to be fixed as per his placement in the merit list. In other words, he cannot march over the candidates who are higher in merit merely on the strength of previous ad hoc service;

(e) Where ad hoc services are regularized under a Government policy, the conditions contained in such notification shall apply in full force. State of Haryana has regularized services of ad hoc employees through various policy-decisions notified from time to time and each such policy specify the date when the ad hoc appointee is brought on regular establishment. The service rendered by such ad hoc appointee before regularization therefore cannot count for seniority though it may be countable for other incidental service benefits like pension etc.....”

2. Accordingly, the claim for seniority has to be disallowed.
3. Learned counsel's contention that this case falls in direction (e) above has no force since the petitioners' initial appointments were made by calling names from the Employment Exchanges and the selection was made by a Departmental Committee. The appointment did not satisfy the test of Article 16 (1) nor the rules of service support one such conclusion.

However, this position would not be true as far as pension is concerned. The ad hoc service on a pensionable post would qualify as pensionable service as prescribed in the Rule 3.17 and 3.17-A of the Punjab Civil Services Rules, Vol. II Part-1 as applicable to Haryana.

4. So far ACP benefits are concerned, they also appear not to fall in favour of the petitioners since the Assured Career Progression Rules require regular satisfactory service to count towards grant of ACP pay scales. Previous ad hoc service spent before regularization cannot be construed as regular service. The petitioners are in service and can always claim pension by clubbing both the periods as they are in continuity.

5. As a result, this petition fails and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

24.08.2018
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Whether speaking/reasoned Yes

Whether reportable No