

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21252-2015 (O&M)

Date of Decision:-02.02.2018.

Triyogi Pandit

.....Petitioner

Versus

The Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court-I, Chandigarh and others

.....Respondents

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

Present: Mr. Sumeet Jain, Advocate for the petitioner.

Mr. Vipul Aggarwal, Senior Panel counsel for respondent Nos.2 to 4-UOI.

P.B. BAJANTHRI, J. (Oral)

On 22.01.2018, following order has been passed in main CWP

No.21106 of 2015:-

Perusal of Annexure P-2 dated 20.12.2011, it is evident that petitioner has been appointed afresh on probation in the post of Mate (Electric) (Semi Skilled). Thus, it is evident that his initial appointment and termination was on ad hoc basis and he was not appointed on regular basis so as to claim any pay fixation from the date of initial appointment till reinstatement. As long as Annexure P-2 which is crystal clear that his appointment to Mate (Electric) (Semi Skilled) is on probation, it is evident that he was appointed afresh to the post of Mate (Electric), is not challenged petitioner is not entitled to any pay fixation

from 1987 to 20.12.2011 in the post of Mate (Electric).

List this matter on 02.02.2018.

A photocopy of this order be placed in the files of other connected cases.”

Learned counsel for the petitioner submitted that in identical matter, with reference to the Supreme Court decision, benefits have been extended to similarly situated persons. Even by the Daily Lok Adalat in CWP-19718 of 2005 benefits have been extended. Factual aspects of the petitioner and those petitioners in other cases which have been cited by the petitioner are entirely different for the reasons that while implementing the award passed by the Labour Court, respondents have passed fresh order of appointment on 21.11.2011 (Annexure P-2). Conditions imposed in the order of appointment read as under:-

“2. The term and conditions of the appointment are as under:-

(a) The post is temporary. In the event of its becoming permanent, your claim for permanent absorption will be considered in accordance with the rules in force.

(b) You will be on probation for a period of two years from the date of appointment. Failure to complete the period of probation to the satisfaction of the competent authority will render you liable to be discharged from service.”

Reading of the terms and conditions, it is evident that petitioner has been appointed afresh since he has been appointed on probation for a period of 2 years from the date of appointment. It was also stated that failure to complete the period of probation to the satisfaction of the competent authority will render him to be discharged from service. This condition is

absence of challenge to the order of appointment and conditions imposed in the order of appointment dated 21.11.2011, petitioner is not entitled to benefit of pay fixation from 1987 to 21.11.2011 in the post of Mate (Electric). Even to this day order of appointment and conditions imposed have not been challenged which is binding on the petitioner as well as respondent-appointing authority. Hence, petitioner has not made out case to fix his pay from 1987. Moreover date of entry into service is afresh w.e.f. 21.11.2011. Therefore, question of extending pay scale prior to 21.11.2011 do not arise. Moreover, having accepted appointment order and joined post petitioner cannot turn around and claim any benefit beyond appointment order. Supreme Court in the case of **Surendra Kumar and others Vs. Greater Noida Industrial Development Authority and others (2015) 14 SCC 382** in para 14 held as under:-

“14. The appellants were initially engaged on contractual basis and they were not appointed against any sanctioned post before they were substantially appointed on the said post on 6.08.2010. Even though advertisement dated 20.11.2002 indicated that there were vacancies, the policy of regularization of contractual employees was approved by the State Government only on 05.03.2008. The appellants were appointed on the post of Assistant Manager (Civil) only pursuant to the policy decision of the respondents for regularisation of contractual employees and thus, the appellants cannot seek for regularization with retrospective effect from 20.11.2002, that is when the advertisement was issued, because at that time regularisation policy was not in vogue. By policy of regularisation, it was intended to give the benefit only from the date of appointment. The Court cannot read

anything into the policy decision which is plain and unambiguous. Having accepted the appointment orders dated 6.08.2010 and also joined the post, the appellants cannot turn round and claim regularisation with retrospective effect.”

Accordingly, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

February 02, 2018.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.