

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

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**CWP No.24100 of 2014 (O&M)**

**Date of Decision: 10.05.2018**

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Sanjeev Kumar

...Petitioner

VS.

Union of India & Ors.

... Respondents

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**Coram : Hon'ble Mr.Justice Surya Kant  
Hon'ble Mr.Justice Shekher Dhawan**

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Present: Mr. Aman Chaudhary, Advocate for the petitioner  
Mr. Aseem Aggarwal, Advocate for respondent No.1  
Mr. Nimrata Shergill, Advocate for PGI

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**SURYA KANT J. (Oral)**

(1) The petitioner is aggrieved by the order dated 08.09.2014 (P4) whereby the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') has dismissed his OA in which direction for his reinstatement as Pharmacist Gr-II and consequential regularization of services was sought.

(2) Broadly the undisputed facts are that the petitioner was appointed as Pharmacist Gr-II in response to a public notice dated 17.02.1999 and his name was sponsored by the Employment Exchange. The selection process was initiated for regular appointments but the petitioner could not make to the final selection list though he was in the waiting list. Since a leave vacancy became available, the petitioner was appointed on *ad hoc* basis against that vacancy on 19.08.2000 initially for 89 days. His appointment was subsequently extended from time to time. Meanwhile, two posts of Pharmacist Gr-II were decided to be filled up on regular basis vide public notice dated 22.05.2007 and apprehending his termination on the appointment of regular selected candidates, the petitioner approached this

Court by way of CWP No.18326 of 2008 in which *ad interim* stay was granted to him. The writ petition was then transferred to the Tribunal and it was finally disposed of on 26.11.2009 with a direction to the respondents to allow the petitioner to continue in service for the time being and permit him to participate in the selection process.

(3) It is undeniable that the petitioner participated in the selection process and he was duly considered by the Selection Committee but he could not qualify. The regularly selected candidates joined the advertised posts and resultantly, the petitioner was relieved w.e.f. 06.09.2010.

(4) He earlier approached the Tribunal and pursuant to the directions issued therein, the impugned order dated 16.04.2013 rejecting the claim of the petitioner for reinstatement or regularization of services was passed. He challenged the said order before the Tribunal but his OA has been dismissed, giving rise to this writ petition.

(5) We have heard learned counsel the parties at a considerable length and gone through the record.

(6) It is true that the petitioner continued to serve on 89 days *ad hoc* basis for a period of 10 years or so but the fact remains that in the light of the Constitution Bench judgment of the Hon'ble Supreme Court in **Secretary, State of Karnataka & Ors. vs. Uma Devi (2006) 4 SCC 1**, the petitioner could at best be considered for regularization of services on the basis of his long uninterrupted *ad hoc* service as per a transparent criteria. He has been considered by the Selection Committee but could not qualify the test as a result of which his *ad hoc* services were dispensed with. The fact that some other vacant posts were allegedly available in PGI cannot be a valid ground to direct reinstatement of the petitioner or to regularize him

when he has failed to achieve the minimum benchmark fixed by the competent authority for such appointment. No legal right can be said to have vested or accrued in favour of the petitioner on his mere continuation on *ad hoc* basis. The petitioner is out of service since the year 2010. His claim for reinstatement/re-appointment against another vacant post was turned down in the year 2013. The Tribunal has minutely examined all the pros and cons of the case. In the absence of any rule or policy decision mandating the respondents to allow the petitioner to continue against the vacant post or to regularize his services, we are of the view that no *mandamus* for this purpose can be issued.

(7) Reliance placed by the petitioner on a decision of this Court in **CWP No.4821 of 2015 (Union of India and another vs. Central Administrative Tribunal, Chandigarh Bench and another)** decided on 18.03.2015 is also misplaced for the reason that there the respondent-employees were appointed “on probation for a period of two years from the date of their appointment” though it was simultaneously mentioned that their appointment was on *ad hoc* basis. The Tribunal held that it was a case of selection on regular basis hence the employees could not be treated as *ad hoc*. That is not the case in the present case.

(8) For the reasons assigned above, we do not find any merit in this writ petition and the same is accordingly dismissed.

**(Surya Kant)**  
Judge

**(Shekher Dhawan)**  
Judge

**10.05.2018**

*vishal shonkar*

1. Whether speaking/reasoned?
2. Whether reportable?

**Yes**  
**No**