

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P.No. 25494 of 2014(O&M)

Date of decision: 19.11.2018

Pardeep Kumar

.. Petitioner

vs.

The Central Administrative Tribunal, Chandigarh and ors .. Respondents

Coram: Hon'ble Mr. Justice Rajeev Sharma
Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Ashwani Bakshi, Advocate
for the petitioner.

Mr. Rajesh Punj Advocate
for respondents No. 2 and 3.

Rajeev Sharma, J.

This petition is instituted against the order of Central Administrative Tribunal, Chandigarh Bench at Chandigarh rendered in OA No. 236/HR/2012 dated 24.04.2014.

The brief facts necessary for adjudication of this writ petition are that the petitioner was offered appointment on temporary basis for the post of Electrician-cum-Generator Operator in National Oilseeds and Vegetable Oils Development Board (hereinafter referred to as 'NOVOD Board' for the sake of brevity) vide letter dated 12.02.1998, The relevant paragraph reads as under:-

“He has been appointed purely on temporary basis which is as of now only upto 28.02.1998 and is likely to continue. During this period Shri Pradeep will remain on probation.”

The averment made in para no.5 of the petition is that the NOVOD Board had sent a proposal to the Joint Secretary of TMOP for confirmation of its employees including the petitioner. The petitioner was relieved on 23.09.2010, who joined his duties in Milk Plant at Rohtak.

The case of the petitioner before the learned Tribunal was that since he has completed the qualifying service for pension, he is entitled for pension. The case of the petitioner was rejected vide order dated 24.04.2014.

The case of the respondent-Union of India is that the petitioner was appointed on temporary basis, thus, the provision of CCS(Pension) Rules 1972 are not applicable qua the temporary employees.

Learned counsel appearing on behalf of the respondents has also brought to the notice of this Court CCS (Temporary Services) Rules, 1965. He also argued that the post was abolished on 18.10.2010.

The petitioner was appointed vide letter dated 12.02.1998 as Electrician-cum-Generator Operator in National Oilseeds and Vegetable Oils Development Board on temporary basis, which was upto 28.02.1998 and was likely to continue. During this period, the petitioner remained on probation. Thereafter, the management had taken a conscious decision on 27.06.2012 to confirm the services of employee from back date. Thereafter, similarly situated persons were confirmed on 14.09.2012. The petitioner was also similarly situated person. He would also be deemed to have been confirmed even though he had left the job on 23.09.2010.

Learned Tribunal has overlooked to consider the letter dated 27.06.2012, which has bearing on the outcome of the case. The case of the petitioner was recommended favourably by the NOVOD Board and ultimately the NOVOD Board has decided to regularise the services of the petitioner vide communication dated 27.06.2012. The abolition of the post vide letter dated 18.10.2010 would not apply retrospectively. Law looks

forward.

Accordingly, the writ petition is allowed. The impugned order dated 24.04.2014 is set aside. The respondents are directed to consider the case of the petitioner for release of pension after counting his qualifying 12 years' service within a period of 10 weeks from today.

(Rajeev Sharma)
Judge

(Harinder Singh Sidhu)
Judge

19.11.2018
dinesh

Whether speaking/reasoned	Yes
Whether Reportable:	Yes/No