

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

**RSA No.5591 of 2016 (O&M)**

**Date of Decision:11.01.2018**

State of Haryana and another

... Appellants

Vs.

Sheela Devi

... Respondent

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

Present : Mr. G.S. Wasu, Addl. A.G. Haryana.

Mr. R.K. Malik, Sr. Advocate with  
Mr. S.N. Pillania, Advocate for the respondent.

**P.B. BAJANTHRI J. (Oral)**

In the present appeal, appellants have challenged the judgment passed by the Appellate Court dated 02.09.2015 in Civil Appeal No.369 of 2014.

Respondent was appointed as MPHW (F) on 12.8.1987 and he has reported on 14.08.1987. Appellants evolved scheme relating to regularization of ad hoc employees. Under the regularization scheme, respondent's services were regularized on 31.12.1990.

Question of law is whether respondent is entitled to ACP benefit while counting intervening period from 1987 to 1990 i.e. Ad hoc service or not?

Perusal of Rule 5 of Pay Revision Rules, 1996, it is crystal clear that regular satisfactory service for a minimum period of 10 years is required to be taken into consideration for the purpose of granting ACP.

Rule 5 of Pay Revision Rules, 1996 reads as under:

*“Every Government Servant who, after a regular satisfactory service for a minimum period of 10 years, if the minimum period is not otherwise prescribed to be different than 10 years*

*either in these rules or by the Government for any class or categories of Government servant from time to time, has not got any financial up-gradation in terms of grant of a pay scale higher than the functional pay scale prescribed for the post as on 31.12.1995, on which he was recruited as a direct recruited fresh entrant:-”*

Since ad hoc service of the respondent during the period from 1987 to 1990 cannot be counted for the purpose of granting the benefit of ACP, both the courts below have erred in not noticing Rule 5. Further the date of regularization of the respondent would be w.e.f. 31.12.1990. From that date onwards, he would be rendering regular service. In other words, ad hoc service cannot be counted for the purpose of extending the benefit of ACP. It is also to be noted that object of extending benefit is to such of those employees who have been stagnating in a particular post. Therefore, one must fulfill the requisite criteria mentioned in the Rules to the extent of rendering regular service in a post or cadre.

Hence, both the courts below have committed error in extending the benefit of ACP to the respondent while counting the service rendered on ad hoc basis for the period from 14.08.1987 to 31.08.1990 which is contrary to Rules.

Supreme Court in the case of **State of Haryana and others** v. **Sita Ram and others**; (2013) 16 SCC 677 has held that for the purpose of extending time bound benefit, regular service is required to be taken into consideration. Para 22 to 24 of the judgment as aforementioned reads as under:

*“22. After noticing distinction between work-charged establishment and regular establishment as also the judgments in State of Haryana v. Haryana Veterinary and AHTS Assn. and State of Punjab v. Ishar Singh, the Division Bench*

observed: (Jagjiwan Ram case, SCC p.672, para 20)

*“20. A reading of the scheme framed by the Board makes it clear that the benefit of time-bound promotional scales was to be given to the employees only on their completing 9/16 years' regular service. Likewise, the benefit of promotional increments could be given only on completion of 23 years' regular service. The use of the term 'regular service' in various paragraphs of the scheme shows that service rendered by an employee after regular appointment could only be counted for computation of 9/16/23 years' service and the service of a temporary, ad hoc or work-charged employee cannot be counted for extending the benefit of time-bound promotional scales or promotional increments. If the Board intended that total service rendered by the employees irrespective of their mode of recruitment and status should be counted for the purpose of grant of time-bound promotional scales or promotional increments, then instead of using the expression '9/16 years' regular service' or '23 years' regular service', the authority concerned would have used the expression '9/16 years' service' or '23 years' service'. However, the fact of the matter is that the scheme in its plainest term embodies the requirement of 9/16 years' regular service or 23 years' regular service as a condition for grant of time-bound promotional scales or promotional increments as the case may be.”*

*23. The order passed in Ravinder Kumar case was distinguished and it was held that the same cannot be treated as precedent for other cases. This is evinced from para 22 of the judgment, which is extracted below: (Jagjiwan Ram case SCC pp.672-73)*

*“22. The order passed by this Court in Ravinder Kumar case is clearly distinguishable. In that case, counsel appearing for the State had conceded that the period during which an employee had worked on work-charged basis is counted for the purpose of grant of increment as well as for computation of qualifying service for pension. In view of his statement, the Court held*

*that there is no reason why such service should not be counted for the purpose of giving additional increment on completion of 8/12 years' service and higher scale on completion of 10/20 years' service. The order does not contain any discussion on the issue whether the work-charged service can be equated or clubbed with regular service for grant of service benefits admissible to regular employees. Therefore, the same cannot be treated as laying down any proposition of law which can be treated as precedent for other cases”*

*24. We reiterate the even though Ravinder Kumar case was delinked from the batch of matters decided vide judgment in State of Haryana v. Haryana Veterinary and AHTS Assn. And was independently decided, the same cannot be relied upon for grant of benefit of ACP scales under the 1998 Rules or time-bound promotional scales or additional increments by counting work charge or ad hoc service where the rules/scheme provided that the employee must have rendered regular service for a particular period. ”*

In view of the principle laid down by the Supreme Court in the case cited supra read with Rule 5 of the Pay Revision Rules, 1996, judgments and decrees passed by the both the courts below are set aside.

Appeal stands allowed.

11.01.2018  
rajeev

**(P.B. Bajanthri)**  
**Judge**

**Whether speaking/reasoned**                      **Yes/No**

**Whether reportable**                              **Yes/No**