

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

218

**RSA-3996-2014 (O&M)
Date of decision:25.04.2018**

Punjab State through Collector and others

...Appellants

Versus

Sh. Nishan Singh

.... Respondent

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

Present: Mr. RBS Chahal, Addl. A.G. Punjab.

Mr. Sanjeev Pabbi, Advocate for the respondent.

P.B. BAJANTHRI, J. (ORAL)

Short question for consideration in the present appeal is whether the Respondent is entitled to count his services from 2.03.1979 to 18.02.1986 for the purpose of seniority and other benefits or not? Undisputedly, respondent was appointed as an Agricultural Inspector on 02.03.1979 on *ad hoc* basis and his services were regularized by the appellant on 18.02.1986. The Punjab Agricultural Service (Class II) Rules, 1974 was notified on 11.11.1974. Rule 12 reads as under:-

“12. The Seniority, inter se of members of the Service shall be determined by the length of continuous service on a post separately in each of the Administrative, Statistical and Engineering cadres in the

service:

Provided that in the case of members recruited by directed appointment, the order of merit determined by the Commission or the recruitment authority shall not be disturbed in fixing the seniority:

Provided further that in the case of two members appointed on the same date, their seniority shall be determined as followed:-

(a) a member appointed by direct recruitment shall be senior to a member recruited otherwise ;

(b) a member appointed by promotion shall be senior to a member appointed by transfer;

(c) in the case of members appointed by promotion or by transfer, seniority shall be determined according to the seniority of such members in the appointments from which they were promoted or transferred; and

(d) in the case of members appointed by transfer from different cadres, their seniority shall be determined according to pay, preference being given to a member who was drawing a higher rate of pay in his previous appointment and if the rates of pay drawn are also the same, then by their length of service in those appointments and if the length of such service is also the same, an older member shall be senior to a younger member:

Provided further that the seniority of persons already in service prior to commencement of these rules shall not be altered or disturbed under these rules and their claims and disputes regarding seniority shall be

examined and settled as per the rules applicable immediately before such commencement.

Note-1 This rule shall not apply to members appointed on purely provisional basis.

Note-2. The period of appointment of a member in the Service on adhoc basis or in stop-gap-arrangements against short terms vacancies will not count towards seniority.”

Perusal of the Note-2 of the aforesaid Rule it is evident that *ad hoc* service or stop-gap-arrangements against short term vacancies will not count towards seniority. Aforesaid statutory Rules have not been taken into consideration by the courts below. Therefore, trial court has erred in passing the decree on 23.11.2010 so also the appellate court has not appreciated statutory rules position in respect of counting ad oc service towards seniority. In view of the aforesaid statutory provision trial as well as appellate court orders dated 23.11.2010 and 14.04.2014 are set aside.

2. Appeal stands allowed.

25.04.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No