

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 14099 of 2019(O&M)
DATE OF DECISION : 22.11.2019

Manju Midha

... Petitioner

versus

State of Punjab & Anr.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Harpal Singh Sirohi, Advocate,
for the petitioner.

Ms. Ambika Sood, DAG Punjab.

ARUN MONGA, J. (ORAL)

CM-17548 of 2019

Application is allowed and replication along with Annexures P-8 to P-10 are taken on record.

CWP NO. 14099 of 2019

1. *Inter alia* issuance of a writ in the nature of *certiorari* has been sought to quash order dated 21.09.2018(Annexure P-7) passed by the Secretary, Department of Higher Education, Government of Punjab, whereby the petitioner has been denied the benefit of counting of her *ad hoc* service for the purpose of seniority and other consequential benefits. Issuance of a writ in the nature of *mandamus* has also been sought directing the respondents to count the *ad hoc* service of the petitioner towards her seniority and consequential benefits arising therefrom.

2. In the return filed on behalf of the respondents, the claim of the petitioner has been resisted on the ground that initially she was appointed as a Lecturer in Physics by not following due process of law. Later she was appointed afresh pursuant to selection made by Punjab Public Service

Commission, as a direct recruitee. Being a direct recruitee, *adhoc* service rendered by her was not taken into consideration and she cannot seek the benefit thereof. It has further been stated that it was in this background the petitioner was not given the benefit of her *adhoc* service for pay fixation as well as grant of selection/ senior grade. The petitioner having acquiesced to non-grant of benefit of the service rendered during *adhoc* period cannot, at this stage, cannot seek the benefit of seniority and other consequential benefits.

3. I have heard the rival contentions of learned counsel for the petitioner as also learned State counsel representing the respondents and have perused the pleadings along with record appended thereto.

4. At the threshold, it would be pertinent to note that the contentions canvassed in the return filed by the respondents as also the arguments addressed by learned State counsel in the course of hearing are self contradictory. While on the one hand, in the impugned order, it has been stated that benefit of pay fixation and senior/ selection grade has already been granted to the petitioner as per law laid down by Hon'ble the Supreme Court, but on the other the same has been denied in the return filed, inasmuch as it states that no benefit whatsoever of *adhoc* service rendered by the petitioner was ever accorded to her after her selection on the basis of direct recruitment. But to counter the same, replication has been filed wherein relevant excerpts from the service book has been reproduced at Annexure P-8. It has been found that original service record of petitioner reflects the same position as stated in the impugned order read with Annexure P-8 to the effect that by granting the benefit of *adhoc* service from 21.08.1986 to 10.09.1993 to the petitioner for awarding selection

grade and senior scale.

5. The same being the position, I seen no reason why the petitioner be not accorded the benefit of *adhoc* service towards seniority as well as other consequential benefits arising therefrom. In fact case of the petitioner to that extent is also squarely covered by Division Bench judgment of this Court rendered in CWP No. 2409 of 2008 dated 18.12.2008(Vijay Singh & Ors. Vs. State of Haryana & Ors.) contained at Annexure P-5. My learned Brother K. Kannan, J.(as he then was) speaking for the Division Bench observed as below:-

“6. In the above circumstances, we have no hesitation to conclude that all the petitioners shall be entitled to treat the ad hoc service rendered by them in the respective posts held by them in which they were subsequently regularized for the purpose of their seniority, which, in turn, shall be the basis of being considered for promotion to the post of lecturers. We uphold the claims of the petitioners in all the three writ petitions and we direct the respondents to draw up the seniority list on the basis of the date of entry in their ad hoc posts and a gradation list will be prepared for being considered for promotion on such a basis.”

The above view of the Division Bench is in turn based on law enunciated by the Apex Court in catena of judgments.

6. In view of the above, writ petition is allowed. Impugned order dated 21.09.2018(Annexure P-7) is set aside. The respondents are directed to count the period of *adhoc* service rendered by the petitioner and accord her all the consequential benefits arising therefrom.

7. Let needful be done within a period of 60 days from receipt of certified copy of this order.

8. No orders as to costs.

(ARUN MONGA)
JUDGE

November 22, 2019

Jiten

1. Whether speaking/ reasoned:

Yes/ No

2. Whether reportable:

Yes/ No