

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17418 of 2007
and other connected cases
Date of Decision : 20.02.2019

Laxmi Narain Gupta and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. B.K. Bagri, Advocate for the petitioners.

Mr. Ram Niwas Sharma, Advocate
for the petitioner(s) in CWP No. 11311 of 2008.

Mr. R.K. Chaudhary, Advocate
for the petitioner(s) in CWP No. 5054 of 2009.

Mr. Madan Pal, Advocate
for the petitioner(s) in CWP No. 5626 of 2009.

Mr. Ashok Kaushik, Advocate
for the petitioner(s) in CWP No. 3016 of 2009.

Mr. Anil Kumar Sharma, Advocate
for the petitioners in CWP No. 14879 of 2009.

Mr. C.S. Bakhshi, Additional Advocate General, Haryana with
Mr. P.K. Das, Additional Chief Secretary to Government of
Haryana School Education.

Harsimran Singh Sethi, J.(Oral)

The present order shall dispose of a bunch of writ petitions in which the claim is being made by the petitioners is that the ad-hoc temporary service rendered by them should be considered as a qualifying service for the grant of pension and other retiral benefits. In all the

petitions, the same relief has been prayed for.

During the pendency of the writ petitions, Division Bench of this Court while deciding CWP No. 7862 of 2006 on 04.07.2008 titled as ***Hanumant Singh and others Vs. State of Haryana and others***, has given the following directions:-

- “(i) *Adhoc/work charged service followed by regular service shall not be counted for the purposes of grant of higher pay scale/benefit of Assured Career Progression Scheme on completion of 8/18 or 10/20 years of service.*
- (ii) *Adhoc/work charged service followed by regular service shall be counted for the purposes of grant of additional increment in the running scale on completion of 10/20 or 8/18 years of service.*
- (iii) *Adhoc service followed by regular service shall be counted for the purposes of pension and seniority.”*

Learned counsel for the petitioners state that the cases of the petitioners are squarely covered in their favour in respect of the prayers made in the respective writ petitions in view of the said directions, which have been given by the Division Bench. Counsels appearing on behalf of the petitioners pray that their writ petitions should also be allowed in the same terms as ordered by the Division Bench on 04.07.2008 passed in CWP No. 7862 of 2006 keeping in view the prayers made in the respective writ petitions. Learned counsel for the petitioners further states that Special Leave Petition, which has been filed against the said judgment by the State of Haryana, has already been dismissed by Hon'ble the Supreme Court and, therefore, the directions reproduced above have already attained finality and, therefore, should be implemented qua the petitioners also while granting them the relief as prayed in their respective writ petitions.

Mr. Charanjit Singh Bakhshi, learned Additional Advocate General, Haryana as well as Sh. P.K. Das, Additional Chief Secretary to Government of Haryana, School Education, Chandigarh while filing an affidavit in Court today, states that there cannot be any dispute with regard to the directions given by the Division Bench of this Court as mentioned above and also the fact that the Special Leave Petition filed by the State of Haryana has already been dismissed by Hon'ble the Supreme Court. It has been stated at bar that a Review Petition has already been filed by the State for reconsideration of the entire matter before Hon'ble the Supreme Court, which is likely to be heard by Hon'ble the Supreme Court in near future.

Learned counsel for the respondents-State states that the present writ petitions should be adjourned sine die to await the decision in the Review Petition so that after the judgment in *Hanumant Singh's case (supra)* attains finality, the same will be implemented qua the petitioners as well in case they are found eligible and their cases are squarely covered as per the said judgment in respect of the prayers made in the respective writ petitions.

I have heard learned counsel for the parties.

It is not disputed by the State that the judgment given by the Division Bench of this Court in CWP No. 7862 of 2006 on 04.07.2008 has already attained finality as the SLP has already been dismissed by Hon'ble the Supreme Court. The only argument is that a Review Petition has been filed which is yet to be decided. Filing of the Review Petition cannot be treated as the pendency of litigation so as to await the said decision before granting the relief to the similarly situated persons.

It has not been disputed that once the judgment has attained

finality, the cases of the similarly situated employees are required to be considered keeping in view the law laid down by the Division Bench of this Court in ***Satbir Singh Vs. State of Haryana, 2002(2) S.C.T. 354***, wherein the Division Bench has held that once a question of law has attained finality, the similarly situated personnel should also be considered for the grant of the same relief. The relevant portion of the said judgment is as under :-

*“11. State has pervasive obligations to discharge in relation to maintaining its expected standards of employer-employee relationship. As already noticed, once of the important facets of such obligations is to be reasonable and fair in granting service benefit to its employees in accordance with service rules and the principles enunciated on pronouncement of judgments by the Courts. When judgments attain finality to which the State is a party, duty is casted upon the State to grant relief to its employees who are similarly situated and on identical facts. Benefit of such approach are many and it causes no disadvantage to the interests of the State. It is not necessary for the State to require each one of its employees to approach the Courts of law for grant of a relief which the State ought to grant to the employees in normal course of its administration, particularly, the cases of the kind afore-referred. Such principles is well known and accepted for years now. By referring to few judgments we would only predicate the principle with greater emphasis of its application in the day-to-day affairs of the State. In the case of **Dr. (Mrs.) Santosh Kumari V. Union of India and others, JT 1994 (7) SC 565: 1995(1) SCT 527 (SC)** the Hon'ble Apex Court held as under :-*

“The allotment of seats should go according to merit. It does not depend upon who comes to Court and who does not. The

matter is one of principle and should not depend upon who comes to the court. A more deserving candidate may not have the means of approach the Court.”

The respondents are unable to dispute the said question of law.

In view of the above, bunch of writ petitions is also disposed of in the same terms as in CWP No. 7862 of 2006, decided on 04.07.2008 in respect of the prayer made by the petitioners in their respective writ petitions. However, it is made clear that in case any order is passed by Hon'ble the Supreme Court in the Review Petition, which has been preferred by the State, the same will be applicable in the cases of the petitioners as well, whose writ petitions are being disposed of today.

Following writ petitions are disposed of by the above said order.

Sr. No.	Case No.	Parties Name
1.	CWP No. 11311 of 2008	Vijay Parkash Vs. State of Haryana and others
2.	CWP No. 3016 of 2009	Hari Chand and others Vs. State of Haryana and others
3.	CWP No. 5054 of 2009	Krishna Bhardwaj Vs. State of Haryana and others
4.	CWP No. 5626 of 2009	Ishwar Chand and others Vs. State of Haryana and others
5.	CWP No. 14879 of 2009	Raj Mal Singh and another Vs. State of Haryana and others
6.	CWP No. 11489 of 2011	Sudagar Singh Vs. State of Haryana and others

A photocopy of this order be placed on the files of
aforementioned connected cases.

February 20, 2019
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? *Yes*
Whether reportable? *Yes*