

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

CWP-33847-2019 (O&M)

Date of decision:-21.11.2019

Ranjana Shahi and others

...Petitioners

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. I.D. Singla, Advocate,
for the petitioners.

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RAVI SHANKER JHA, C.J. (ORAL)

The petitioners have filed this petition being aggrieved by the order passed by the Central Administrative Tribunal in OA No. 060/00793/2017 dated 04.12.2018 by which the original application filed by the petitioners seeking quashing of seniority list dated 23.11.2015 and the order dated 09.11.2016 rejecting their representation against the seniority list was dismissed.

The learned counsel for the petitioners submits that the petitioners were initially engaged on adhoc basis for 89 days between 1993 to 1995 and continued on adhoc basis pursuant to interim orders passed by the Tribunal. It is submitted that subsequently the Tribunal disposed of their petition directing the respondents to continue the petitioners on adhoc basis and not to replace them with other adhoc employees till the post in question became vacant and it was decided to fill up the post and the petitioners were permitted to participate in the selection process. Apparently, the petitioners continued to work on adhoc basis, whereafter they filed petition before the

Tribunal which ultimately culminated in the passing of an order by this Court in CWP-2895-CAT-2006 titled as *Vandana and others Vs Union of India and others* dated 30.08.2011. This Court disposed of the petition with a direction to the respondents to frame a scheme of regularization in accordance with the judgement of the Supreme Court rendered in the case of *Secretary, State of Karnataka and others Vs Uma Devi and others*, (2006) 4 SCC 1 and in case the petitioners are found eligible in all respects, their services be regularized. Pursuant to the orders passed by this Court, the authorities took up the process and ultimately passed an order dated 20.05.2014 (Annexure A-4). The petitioners were ordered to be regularized subject to certain conditions that were mentioned therein. After issuance of the orders of regularization, the respondent-authorities published the seniority list on 23.11.2015 in which the petitioners were given seniority on the post of Stenographer (Grade-II) w.e.f. 20.05.2014. The petitioners being aggrieved filed the representation before the authorities which was rejected by the order dated 09.11.2016. The seniority list as well as the order of rejection were challenged by the petitioners before the Tribunal. The Tribunal by the impugned order after extensively discussing the law laid down by the Supreme Court in the cases of *Uma Devi (supra)*, *Rudra Kumar Sain and others Vs Union of India and others*, AIR 2000 SC 2801, *K. Bhatnagar and others Vs Union of India and others*, 1991(1) RSJ, 459 and *Direct Recruit Class II Engineering Officers' Association Vs State of Maharashtra and others*, (1990) 2 SCC 715 as well as by this Court in the case of *State of Haryana and others Vs Surindra Kumar Mishra and others*, 2013(2) RSJ 368 and the previous orders passed by the Tribunal and after taking into

consideration paragraph 5 of the office memorandum issued by the Central Government dated 03.04.2013 has dismissed the petition. The Tribunal has also taken note of the fact that in the previous litigation taken up by the petitioners the Tribunal, allowing the employees to continue in service on adhoc basis, had specifically held that adhoc service rendered by the petitioners would not be counted for seniority.

The learned counsel for the petitioners submits that once the petitioners have been regularized after scrutiny, the petitioners should have been granted seniority from the date from which they had entered the service by relying upon the rule of continuous service/officiation and the observations by the Supreme Court in the *Direct Recruit* case (supra). It is submitted that the authorities after passing of the order in 2014 were required and bound to grant seniority to the petitioners from the initial date of appointment. It is further submitted that the Tribunal has wrongly relied upon paragraph 5 of the instructions dated 03.04.2013 for the purposes of denying seniority to the petitioners as the same has no basis.

We have heard learned counsel for the petitioners at length.

From a perusal of the record, it is evident that all the petitioners were engaged on adhoc basis for 89 days between 1993 to 1995. It is also apparent that one of the petitioners, namely, Anju Bala had approached the Tribunal by filing OA 732/PB/1995 which was decided on 21.09.1995. In the said OA, the petitioner therein had claimed that she be continued on adhoc basis relying on the law that an adhoc employee should not be replaced by another adhoc employee. From a perusal of the order passed on 21.09.1995 in OA 732/PB/1995, it is evident that the Tribunal categorically recorded a finding and stated

that it was an undisputed fact that the applicant was not eligible or qualified to be appointed on the post on regular basis. However, taking note of the fact that the authorities were replacing the petitioner by another adhoc employee, directions were issued to continue the petitioner on adhoc basis. While disposing of the petition with the aforesaid directions, the Tribunal passed the aforesaid order relating to seniority which reads as under:-

"5. It is made clear that if respondents continue the applicant on adhoc basis under these orders, it would not confer on her any benefit of seniority etc. in the event of her regular appointment to the post unless she is entitled to the said benefit otherwise in accordance with law and the rules."

From the aforesaid directions and orders, it is apparent that the Tribunal in the initial stage itself had directed that the services rendered on adhoc basis by the petitioner would not be counted for the purposes of according benefit of seniority. The petitioner was accordingly given regular appointment to the post.

Quite apart from the above, it is also clear from the facts of the case that after the decision in the case of *Uma Devi* (supra), when the matter was again taken up by the petitioners, this Court disposed of the petition filed by them on 30.08.2011 directing the respondents to frame a scheme and consider their case for regularization in terms of the order passed by the Supreme Court in *Uma Devi* (supra) and that pursuant to the said order and directions, the petitioners were ultimately stated to be regularized by the order dated 20.05.2014 (Annexure A-4). The order dated 20.05.2014

the order has neither been challenged, nor assailed by the petitioners before the Tribunal or before this Court. It is also evident that the authorities on the basis of the order of regularization have fixed the seniority of the petitioners w.e.f. 20.05.2014 on the post of Stenographer (Grade-II). It is in such circumstances and in the backdrop of the aforesaid facts that the Tribunal after taking into consideration various decisions of the Supreme Court and the fact that the petitioners have been regularized in the year 2014 and can be granted seniority only from 20.05.2014 in terms of paragraph 5 of the government instructions dated 03.04.2013, hence dismissed the petition.

Having perused the detailed order passed by the Tribunal, the instructions discussed above and in the backdrop of the facts stated in the aforesaid paragraphs, we do not find any perversity or illegality in the impugned order.

The petition filed by the petitioner being meritless is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

21.11.2019
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No