

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

CWP No. 1940 of 2020
Date of decision: 24.01.2020

Rajender Singh Yadav

....Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Vikram Sheoran, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the order dated 05.08.2019 (Annexure P-6), whereby, the claim of the petitioner was rejected for claiming the benefit of the *ad hoc* service for the purposes of seniority and other benefits from 24.12.1975 till 01.01.1980. The claim as such has been rejected by a well reasoned order passed by the respondents which is subject matter of challenge. In the impugned order, the judgment in ***Civil Appeal No. 5947 of 2012, State of Haryana and others vs. Vijay Singh and others*** dated 22.08.2012 has been referred to for declining the relief.

A perusal of the paper book would go on to show that the petitioner was appointed as a Statistical Supervisor wayback on 18.12.1975 (Annexure P-1) on *ad hoc* basis for a period not exceeding 6 months or till the recommendees of the Subordinate Service Selection Board, Haryana became available, whichever is earlier. The services were, however, regularized w.e.f. 01.01.1980 in accordance with the instructions contained vide order dated 02.12.1980 (Annexure P-2). The petitioner thereafter served and retired on 30.06.2008 as an Assistant Statistical Officer. During

his long tenure from 1975 to 2008, at no point of time, he raised the issue that the *ad hoc* period is to be counted for purposes of seniority or pursued the claim as such as nothing has been brought on record that the said claim was made or rejected during his period of service.

For the first time, a legal notice dated 05.08.2015 was served and for the said relief in CWP No. 25063 of 2018, directions were taken from this Court on 28.09.2018 (Annexure P-5) for decision of the legal notice in terms of the judgment of the Division Bench in ***Hanumant Singh and others vs. State of Haryana and others*** dated 04.07.2008. Resultantly, the impugned order has been passed.

A perusal of the said judgment of the Division Bench would also go on to show that it was a case pertaining to the benefit of seniority, higher standard pay scale and ACP of Seasonal Pump Attendants and was not related to the petitioner in any manner, he being a Statistical Assistant. It is a matter of record that the said orders of the Division Bench, as such, have been upheld on 10.05.2018 by the Apex Court which has also been noticed in the impugned order. It is the case of the petitioner that the directions were sought by this Court in pursuance of the dismissal of SLP.

This Court is not convinced in any manner that decision of the SLP was in any way connected with the petitioner or his department. Merely because directions were taken from this Court to revive a stale cause of action to decide his representation, would not give him any cause of action to agitate for a grievance which he had never agitated for in his service. Reliance can be placed upon the judgment of the Apex Court in ***Civil Appeal No. 2425 of 2019, The Government of India and another vs. P. Venkatesh*** that directions issued by the High Courts for deciding

representations at a belated stage not only revive a dead cause of action and the judgment is directly applicable to the facts of the present case.

Even otherwise, it is settled position of law that the *ad hoc* period cannot be counted for purposes of seniority. Reliance can be placed upon the judgment of the Apex Court in ***Punjab State Electricity Board and others vs. Jagjiwan Ram and others, 2009 (3) SCC 661*** wherein, it has been held as under:-

“12. In State of Punjab and others v. Ishar Singh and others [(2002) 10 SCC 674] and State of Punjab and others v. Gurdeep Kumar Uppal and others [(2003) 11 SCC 732], the two-Judge Benches referred to the judgment in State of Haryana v. Haryana Veterinary & AHTS Association (supra) and held that adhoc service rendered by the respondents cannot be clubbed with their regular service for the purpose of grant of revised pay scales, senior/selection grade, proficiency step-up and for fixation of seniority.”

In such circumstances, the impugned order dated 05.08.2019 (Annexure P-6) does not suffer from any infirmity which would warrant interference by this Court and the writ petition stands dismissed in limine.

24.01.2020
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No