

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 1719 of 2017

Date of decision : 14-02-2020

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Virender Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. R.S Sangwan, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

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RITU BAHRI, J.

Through the present writ petition, the petitioner is seeking writ of certiorari to quash the letter/communication dated 10/01/2017 passed by respondent No. 2 (Annexure P-9), whereby his claim has been denied. A further prayer has been made by the petitioner to issue direction to the respondents to grant and release the pay scale after counting the ad hoc service rendered from 15/03/1995 to 15/05/1996 towards annual increments and qualifying service for pension.

On the recommendation of the concerned Employment Exchange, the petitioner was offered an appointment for the post of Electrician Instructor in the pay scales of Rs. 1400-40-1600-50-2300-EB-60-2600 on ad hoc basis for 89 days by the Director of Industrial

Training and Vocational Education, Haryana vide order No. 639 Estt. Dated 09/03/1995 (Annexure P-1). Petitioner joined his services at PPL, ITI, Palwal (Faridabad). Petitioner continued to serve continuously on ad hoc basis up to 15/05/1996 and he was relieved on arrival of regular candidate recommended by the SSS, Board, Haryana. Thereafter, the respondent-Department send requisition to various employment exchanges in Haryana to sponsor the names of those candidates who were eligible to be appointed. The petitioner appeared before Department Selection Committee and his name was recommended for Lineman (Practical) Instructor again on ad hoc basis and he was appointed vide appointment letter dated 29/11/1997 (Annexure P-3) in the pay scale of Rs 1400-401600-50-2300 EB-60-2600. The services of petitioner were regularized vide order dated 30/04/2004 (Annexure P-4) issued by respondent No. 2 as per Government instructions and policy decision. Thereafter, the petitioner made a representation through his advocate to the respondent-Department to grant and release the pay scale after counting the ad hoc service rendered from 15/03/1995 to 07/05/1996 towards annual increments and qualifying service for pension rendered by the petitioner in the same Department and in the same pay scale with all other consequential benefits. The claim of the petitioner was rejected vide order dated 10/01/2017 (Annexure P-9). Hence the present petition.

Upon notice reply has been filed by the joint director (technical), Department of Skill Development and Industrial Training Haryana on behalf of respondent No. 1 to 3, wherein Stand has been taken that the petitioner was appointed vide appointment letter dated

29/11/1997 (Annexure R-2). Thereafter services of the petitioner was regularized with effect from 01/10/2003 as per government policy vide order dated 16/06/2004. However, the service of the petitioner from 15/03/1995 to 07/05/1996 cannot be counted for extending the benefit of time bound promotional scales or promotional increments. In the reply, reference has been made to a Division Bench judgment of this Court titled ***“Sarabjit Singh versus State Consumer Disputes Redressal Commissioner, Punjab and others” (LPA No. 507 of 2015)*** decided on 10/09/2015 wherein it has been held that calling names from employment exchange does not meet the requirement of Article 14 and 16 of the Constitution as it is a statutory requirement to ask for the names registered with employment exchange but the test of public employment is vide publicity by way of public notices giving opportunity to all eligible candidates to apply and consider them in accordance with law. Reference has also been made to a judgment passed by Hon’ble Supreme Court of India in the case of ***“State of Madhya Pradesh and others Versus Ku. Sandhya Tomar and another 2013 (1) SCT 812”***, wherein also the names of the petitioner was called from the employment exchange and no public notice or advertisement for appointment was issued. It was held by the Hon’ble Apex Court that respondent No. 1 was not appointed following the procedure when mandatorily required by law and such appointment was held to be in violation of articles 14 and 16 of the Constitution.

Heard counsel for the parties and gone through the records of the case. It is clear that initially, no Department Selection Committee was constituted to interview other candidates. Hence the service

rendered by the petitioner after joining on 29/11/1997 as per the appointment letter has been rightly taken into consideration for regularization of services. In view of the judgment passed by the Hon'ble Apex court in ***Ku. Sandhya Tomar's case (supra)***, ad hoc service rendered by the petitioner w.e.f the period 15/03/1995 to 15/05/1996 towards annual increment has been rightly rejected, as no ground is made out to count the service rendered during the aforementioned period.

In view of all that has been discussed above the present writ petition is dismissed.

14-02-2020

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No