

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.4186 of 2016
Date of decision: 21.01.2020

Yoginder Singh Rana

...Petitioner

Vs.

The State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjiv Gupta, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Ritu Bahri, J. (oral)

The petitioner is seeking direction to the respondents to consider his claim for computing the ad hoc service for the purpose of seniority with all consequential benefits as granted to the co-employees pursuant to the order dated 23.07.2012 (Annexure P-4).

A perusal of the order dated 23.07.2012 (Annexure P-4) shows that Surinder Kumar and others had filed CWP No.20664 of 2008 seeking direction to the respondents to determine the seniority after counting the service rendered by them on adhoc basis. The said petition was allowed vide order dated 18.12.2008 in terms of CWP No.2409 of 2008, titled as **Vijay Singh and others vs. State of Haryana and others.** Against the said judgment, State of Haryana filed SLP No.29274 of 2009. In the meantime, petitioners had filed COCP No.613 of 2012, wherein a direction was given to implement the above said judgment within two days. Therafter, the seniority list of the Master Cadre pertaining to the year 2006 was reviewed and benefit was granted to all those petitioners after treating their adhoc

service, rendered by them in the respective posts, on which, they were subsequently regularized.

Learned counsel for the petitioner states that SLP against the judgment passed in CWP No.20664 of 2008, has already been dismissed.

Upon notice, short reply has been filed by respondent Nos. 1 to 4, wherein reference has been made to the judgment passed in CWP No.20664 of 2008 (**Surender Kumar Sharma vs. State of Haryana and others**). It has been stated that SLP against the said judgment has since been dismissed on 19.11.2010 on the ground of delay and question of law was kept open to be decided in another case.

Thereafter, 80 employees have already been granted the benefit as per judgment passed in **Surender Kumar's** case (supra). The respondent-State is now taking a stand that in view of the judgment passed in **State of Haryana and others vs. Vijay Singh and others**, 2012 (8) SCC 633, petitioner's case for counting the adhoc service towards seniority is not made out. Hon'ble the Supreme Court in **Vijay Singh** (supra) was examining a case, where benefit of ad hoc service was being sought by Masters in different subjects i.e. Physical Training Instructors and Hindi Teachers. It was held that these teachers were appointed without following the procedure prescribed under the Punjab Educational Service, Class III, School Cadre Rules, 1955 and merely by giving appointment by getting their names from the Employment Exchange will not make them entitle for counting that service for seniority. Thereafter, in the case of **Rajesh and another vs. State of Haryana and another**, CWP No.5478 of 2013 (decided on 06.10.2015), reference has been made to the bunch of SLPs filed by respondent-State in **Vijay Singh's** case. By referring to the said judgment,

the seniority list was set aside. As per judgment passed by Hon'ble the Supreme Court in Vijay Singh's case (supra), judgment passed by Division Bench of this Court in CWP No.2409 of 2008 (Vijay Singh and others vs. State of Haryana and others) was set aside and it was held that seniority cannot be framed by counting the ad hoc service. A direction was given to the State of Haryana to re-frame the seniority of the petitioners as per law. This judgment is applicable to the facts of the present case.

Resultantly, the present petition is disposed of by giving direction to the respondents to re-frame the seniority as per decision given in Rajesh's case (supra).

21.01.2020
ajp

(RITU BAHRI)
JUDGE

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