

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

**CWP No.4665-2016 (O&M)
Date of Decision:22.01.2020**

Raghubir Kaur

.....Petitioner

Versus

Punjab Water Resources Management and Development Corporation Ltd.
Chandigarh and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. H.S. Saggu, Advocate for the petitioner.

Mr. Amit Singh Sethi, Advocate with
Ms. Harsharanpreet Kaur, Advocate
for respondents No.1 to 3.

TEJINDER SINGH DHINDSA J.(Oral)

As per averments made in the writ petition, petitioner was appointed as a Clerk on Adhoc basis under the erstwhile Punjab State Tubewell Corporation on 02.12.1977. It has been averred that services of the petitioner were regularized w.e.f.01.02.1978. Petitioner stands retired from the post of Superintendent Grade-II w.e.f. 30.09.2015.

Instant writ petition has been filed raising a grievance that the seniority of the petitioner has been wrongly down graded by taking a date of regular appointment to be 29.01.1979 instead of 01.02.1978. Petitioner is further aggrieved of the consequential order passed at Annexures P-5 and P-6 in terms of which her pay had been reduced and a recovery of Rs.2,92,034/- has been recovered from her retiral benefits i.e.leave encashment.

It would be apposite to take note that an issue came to be raised before this Court in ***CWP No.1267 of 1999 (Darshana Sharma and***

others Vs. Punjab State Tubewell Corporation and others), as to whether benefit of adhoc service can be given to the employees of the Punjab State Tubewell Corporation towards seniority in a case where the initial appointment has not been made in accordance with the mode prescribed for public appointment under the statutory rules governing the service. Vide judgment dated 26.09.2013 in CWP No.1267 of 1999 (Annexure P-7), it was held that only such adhoc service can be reckoned towards seniority where the initial appointment has been made in accordance with the rules and by adopting the mode of a public appointment.

Counsel for the petitioner fairly concedes that insofar as the fixation of seniority is concerned the judgment rendered in **Darshana Sharma's case (supra)** would apply even to the petitioner as her initial appointment was not following the due procedure as mandated under the statutory rules. In other words counsel gives up the challenge to the action of the respondent-Corporation as regards the re-fixation of the seniority is concerned in pursuance to the directions issued by this Court in **Darshana Sharma's case (supra)**.

The controversy as such is now confined with regard to the legality and validity of the respondent-corporation in having recovered an amount of Rs.2,92,034/- from the retiral benefits consequent to her seniority having been re-fixed.

In the considered view of this Court, the recovery of the aforementioned amount by the corporation cannot be faulted. In the written statement filed by the respondent-Corporation it has been clarified that initial appointment of the petitioner purely on adhoc basis was on 02.12.1977. Petitioner's services were then terminated on 10.03.1978.

Thereafter she was given fresh appointment on regular basis w.e.f. 29.01.1979. Mr. Amit Singh Sethi, learned counsel representing the Corporation, has made a categorical submission that the seniority of the petitioner had been recast by taking her appointment as 29.01.1979. Further submitted that the recovery of Rs.2,92,034/- that already stands effected pertains to the period prior to 29.01.1979. I find sufficient merit in the contention raised by counsel for the respondent-corporation that no benefit can possibly accrue to the petitioner for the previous service rendered on adhoc basis and which was not through any regular selection process.

The assertion made on behalf of the respondent-corporation that all due benefits have been granted to the petitioner including seniority, fixation of pay etc. by taking her regular appointment as 29.01.1979 has not met with any rebuttal by counsel representing the petitioner.

In view of the above, no infirmity is found in the action of the respondent-corporation in having recovered the amount of Rs.2,92,034/- towards implementation of the judgment of this Court in **Darshana Sharma's case (supra)**.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

January 22, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No