

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

CWP-10027-2019 (O&M)

Date of decision : 02.07.2021

Qayamuddin

... Petitioner(s)

Versus

Punjab and Sind Bank and Others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Ms. Harpreet Kaur Dhillon, Advocate, for the petitioner.

Mr. R.Kartikeya, Advocate, for the respondents.

ALKA SARIN, J.

Taken up through video conferencing.

The brief facts relevant to the present case are that the petitioner was appointed on ad-hoc basis to the post of Peon with the Punjab & Sind Bank, in Faridkot Zone and is working as such since 1988. The name of petitioner along with one Angrez Singh (whose CWP No.2979 of 2015 already stands allowed by this Court vide order dated 26.10.2016, Annexure P-8) were recommended by the Manager, Zonal Office, Punjab & Sind Bank, Faridkot for absorption against permanent posts as they were fulfilling the condition of having completed 240 days in the preceding 12 months and had also completed 240 days prior to 31.12.1989 as per the settlement between the respondent-Bank and the Workers Union. On 24.06.2000 (Annexure P-1) the Chief Manager, Personnel of the respondent-Bank called upon respondent No.4 to verify the records of the petitioner and Angrez Singh at their own end and if they were fulfilling the criteria then they be called for an interview and their cases be considered for absorption.

Vide letter dated 24.06.2000 (Annexure P-2) respondent No.4 sent to respondent No.3 the complete information and record of the petitioner showing that he fulfilled the condition required for absorption of temporary peons as permanent peons and also stating that the petitioner may be called for the interview. On 26.06.2000 the petitioner and Angrez Singh, along with other candidates, were called for the interview for the post of permanent peons. As per the petitioner, though he and Angrez Singh were selected for absorption on permanent posts, they were not considered by the respondent-Bank for absorption as permanent peons for want of verification of their records.

Vide letter dated 16.10.2000 (Annexure P-3) the Deputy General Manager, Personnel of the respondent-Bank called upon respondent No.3 to verify certain facts regarding the service of the petitioner and Angrez Singh. A copy of the said letter was also marked to respondent No.4. Vide letter dated 31.10.2000 (Annexure P-4) respondent No.4 informed the Deputy General Manager, Personnel of the respondent-Bank about the petitioner having worked for 240 days in twelve consecutive months and requested that the name of the petitioner be considered for permanent employment. A copy of the said letter was also marked to respondent No.3. Respondent No.3 vide letter dated 09.11.2000 (Annexure P-5) addressed to the Deputy General Manager, Personnel of the respondent-Bank reiterated that the petitioner and Angrez Singh had both been selected by the Selection Committee vide result-sheet and recommendations dated 26.06.2000.

Since the respondent-Bank took no steps to appoint the petitioner and Angrez Singh as permanent Peons despite there being

specific recommendations to that effect, in 2015 Angrez Singh filed CWP-2979-2015 in this Court which writ petition was allowed vide order dated 26.10.2016 (Annexure P-8) wherein it was inter-alia held that *“The respondent/competent authority is directed to re-consider name of the petitioner for absorption from the date of others absorption within a period of four months from today. It is made clear that the petitioner is entitled to salary attached to the post of Peon from the date other similarly situated persons, who were also subjected to selection procedure in the year 2000 and who have been absorbed/appointed. Arrears of salary shall be calculated and disbursed within four months from today. For the reasons that for no fault of petitioner he is entitled to monetary and service benefits from July 2000”*. Against the said order Annexure P-8, the respondents filed LPA No.416 of 2017 which was dismissed vide order dated 18.09.2018 (Annexure P-9). Thereafter, the respondents preferred SLP No.6585 of 2019 against the order dated 18.09.2018(Annexure P-9) passed in LPA No.416 of 2017. The said SLP was converted into Civil Appeal No.5199 of 2019 and was disposed off by the Supreme Court of India vide order dated 04.07.2019 (Annexure P-10) inter-alia holding that *“There is no reason for interference with the impugned judgment. However, we hold that the respondent is not entitled for monetary benefits from July, 2000. The Writ Petition was filed only in 2015. The respondent is entitled for monetary benefits from three years prior to the date of filing of the Writ Petition”*. Despite the writ petition filed by Angrez Singh having been allowed by this Court and his case having been decided by the Supreme Court, the case of the petitioner was not considered. Hence, the petitioner has preferred the present writ petition.

Written statement on behalf of the respondents has been filed by respondent No.4 wherein an endeavour has been made to distinguish the case of Angrez Singh. It has also been averred in the written statement that since the petitioner had slept over his claim it was, therefore, deemed that he had abandoned his claim. A plea of disputed questions of facts arising in the case has been raised. Counsel for the respondents has contended that the petitioner did not work for 240 days and is not entitled to be regularized.

I have heard learned counsel for the parties and have perused the record. The objections raised by the respondents that the petitioner does not fulfill the eligible criteria of having worked for 240 days is totally contrary to the documents/communications available on the record some of which were issued by respondent No.4 himself who has signed the written statement. The facts of the present case are identical to the case of Angrez Singh. The cases of Angrez Singh and the petitioner were kept pending by the respondents purportedly on account of verification of record. The respondents have not given any explanation as to why the record could not be verified in over twenty years and the petitioner's services could not be regularized. Both Angrez Singh and the petitioner are on similar footing and there is no distinction which can be drawn between the two cases. Further, the objection raised by the respondents that the petitioner is deemed to have abandoned his claim is also not tenable as the petitioner has been following his case and has approached this Court after his case was not considered despite the decision given in the case of Angrez Singh which has since attained finality even before the Supreme Court.

In view of the above, the present writ petition is allowed. The respondent/competent authority is directed to re-consider name of the

petitioner for absorption from the date of absorption of others within a period of four months from today. The petitioner is entitled to salary attached to the post of Peon. The arrears of salary shall be calculated and disbursed to the petitioner within four months from today. The petitioner is entitled for monetary benefits from three years prior to the date of filing of the writ petition. Costs of Rs.10,000/- are also imposed on the respondents which costs shall be payable to the petitioner.

The writ petition stands disposed off accordingly.

02.07.2021
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO