

385 (4th case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17498-1997 (O&M)

Date of Decision: 05.05.2022

Dr. Mohit Kumar and others

...Petitioners

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Suman Jain, Advocate,
For the petitioners.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to give the petitioners pay scales as well as other allowances as applicable to them from the due date and arrears along with interest @ 18% per annum. Further, the petitioners have sought the benefit of their *ad hoc* service towards higher pay scale.

2. I have gone through the case file.

3. Having heard the competing arguments, I am in agreement with those of the learned State counsel canvassed on the lines of pleadings in the return.

4. Controversy herein is already *res judice*. Reference may be had to Apex Court judgment dated 19.09.2000 passed in Civil Appeal No.13423-1996 titled "*State of Haryana Vs. Haryana Veterinary and A.H.T.S. Association*" reported in **2000 AIR (Supreme Court) 3020**, relevant thereof is reproduced hereinbelow:-

“6 XXX XXX XXX
In view of the aforesaid stipulations in the offer of appointment itself we really fail to understand as to how the aforesaid period of service rendered on *ad hoc* basis can be held to be service on regular basis. The conclusion of the High Court is contrary to the very terms and conditions stipulated in the offer of appointment and, therefore, the same cannot be sustained. The regular letter of appointment dated 29.1.1982 in favour of Rakesh Kumar was also produced before us

and that letter indicates that the respondent Rakesh Kumar alongwith others had applied to the Secretary, Haryana Public Service Commission for being appointed as an Assistant Engineer and the Service Commission after selecting the number of persons prepared a list and appointment letters were issued by the Government from the said list on the basis of the merit position of different candidates. Thus the appointment of respondent Rakesh Kumar was a fresh appointment in accordance with the Statutory Rules after the Public Service Commission adjudged their suitability and the regular service of the respondent Rakesh Kumar must be counted from the date he joins the post pursuant to the offer of appointment dated 29.1.1982 and the prior service rendered by him on ad hoc basis cannot be held to be regular service nor can it be tagged on to the later service for earning the benefit under the Government Circular dated 2nd June, 1989 as well as the Clarificatory Circular dated 16th May, 1990. The conclusion of the majority judgment of the High Court, therefore, is wholly erroneous and cannot be sustained.”

5. In view of the aforesaid, no grounds are made out to interfere.
6. Dismissed.

(ARUN MONGA)
JUDGE

May 5, 2022
Vandana

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