

Sr. No.732 (two cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) CWP-7567-2001 (O&M)

Mohinder Singh and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

(ii) CWP-17309-2001 (O&M)

Mohan Dutt and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

Date of decision: 25.05.2022

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.K.Malik, Senior Advocate with
Mr. Sandeep Dhull & Mr. D.S.Mann, Advocates
for the petitioners.

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

ARUN MONGA, J. (ORAL)

This order shall dispose of aforesaid petitions herein, which are inter alia, for issuance of a writ in the nature of Mandamus directing the respondents to count the work charge service rendered by the petitioners for the purpose of grant of additional increments/standard scale after rendering 10/20 years service.

2. Petitions were admitted for hearing way back in the year 2001.

3. When taken up for final adjudication, after around 20 years, the learned Senior counsel as well as the counsel for petitioners are unable to assist the Court for lack of instruction due to not having proper address and particulars of the petitioners. On a Court query, learned counsel for the petitioners fairly concedes

that all his attempts to establish contact with the petitioners have been futile. In the

premise, even issuance of fresh notice to petitioners would be an exercise in futility.

4. Whereas, on the other hand learned counsel for the State submits that he made attempts to get instructions from the office representatives of the respondents, but for lack of any assistance, he too is unable to address arguments.

5. Be that as it may, from perusal of record/pleadings, it appears that even on merits, claim of the petitioners is not admissible. Reference may be had in particular to the stand taken in para-1 of the preliminary objections of the written statement filed by respondents No.1 to 11 in CWP-7567-2001.

6. Furthermore, owing to a still subsequent decision rendered by Supreme Court in **State of Haryana and others vs. Sita Ram and others** in Civil Appeal Nos.5411-5430 of 2009, following stand in addition to the above has been taken in para-3 of the preliminary submission of the reply filed by respondents No.1 to 5 in connected CWP-17309-2001:-

“That the subject matter and the controversy in issue is squarely covered by the law laid down by the Hon’ble Supreme Court of India in Civil Appeal Nos.5411-5430 of 2009 titled as ‘State of Haryana and others V/s Sita Ram and others’ alongwith other Civil Appeals. The above appeals were preferred by the State of Haryana against the Judgements passed by Division Bench of Hon’ble Punjab & Haryana High Court. The appeal of the State of Haryana were allowed by the Hon’ble Supreme Court by passing judgement dated 29.10.2013 and the orders of Hon’ble High Court were set aside. In the above appeals the question before the Hon’ble Supreme Court was whether, the work charge service of respondents can be treated as regular service for the purpose of grant of benefit under the Haryana Civil Services (Assured Career Progression) Rules, 1998 (for short, the 1998 Rules). Both the above policies issued vide letter dated 8.02.1994 (Annexure P-2) & letter dated 7.08.1992 (Annexure P-3) were carefully considered by the Hon’ble Supreme Court of India in the light of the 1998, Rules and after discussing the matter in detail the Hon’ble Apex Court held that the Division of the High Court Committed an error by directing the appellants to treat work-charge service of the respondents as part of regular service for the purpose of Rule 5 (1) and (2) of 1998 Rules. The copy of order dated 29.10.2013 is attached as Annexure R-1. Thus, after decision of Hon’ble Apex Court with regard to the issue, the matter has been settled in terms of

orders dated 29.10.2013 and the writ petition has become devoid of merits and may kindly be dismissed accordingly.”

7. I am in agreement with the stand taken by the respondents as aforesaid.

Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

8. In view of the aforesaid, no grounds are made out to interfere.

9. Dismissed.

25.05.2022

mamta

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No