

CWP-19403-2003 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(205)

CWP-19403-2003 (O&M)
Date of decision:- 28.04.2023

Chander Bhan Sharma and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Narender Hooda, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

1. Instant petition has been filed primarily seeking the following reliefs:-

(i) issue a writ in the nature of certiorari for quashing the Govt. instructions dated 15.03.2002 and 23.04.2003, Annexure P-4 and P-5, respectively, vide which the benefit for counting the adhoc service rendered by the petitioners was withdrawn for the purpose of grant of additional increment on completion of 8/18 years service in view of the Govt. instruction dated 07.08.1992 and also further quash the order of the authorities for reducing the pay of the petitioners in view of the Govt. instruction, Annexure P-5;

(ii) issue a writ in the nature of Prohibition restraining the respondents from withdrawing the benefit of additional increments on completion of 8/18 years service by counting adhoc service;

(iii) issue a writ in the nature of mandamus directing the respondents to grant the additional increments granted under the scheme dated 07.08.1992 and further clarified vide letter dated 20.08.1996.

2. Upon notice, writ petition has been contested by the respondents by filing a response.

3. Heard counsel for the parties.

4. The matter in controversy in the writ petition has been finally settled by the Hon'ble Supreme Court in ***State of Punjab Versus Ishar Singh, (2002) 10 SCC 674***. The observations of the Supreme Court deserve to be noticed and are reproduced as under:-

*“2. The respondents were initially appointed as Horticulture Inspectors on adhoc basis without following the procedure laid down in the recruitment rules. Subsequently their services were regularised and orders appointing them on regular/substantive basis were issued. The appointments of the respondents (adhoc and regular) were made prior to 1.9.1989. The question for consideration is whether the adhoc services rendered by them is to be included for the purpose of calculating 8 or 18 years service which is required for giving them the higher scale of pay under the proficiency step-up scheme for seniority etc. This question was considered by this Court in the case of **State of Haryana v. Haryana Veterinary & AHTS Association and another, 2000(4) SCT 664 (SC) ; (JT 2000(10) SC 561**, in which a three Judge Bench of this Court held that the adhoc service rendered by the employees is not to be included for the purpose of calculating 8/18 years of service only regular service is to be counted for the purpose.*

3. *On consideration of the facts and circumstances of this case we are satisfied that the decision in State of Haryana v. Haryana Veterinary & AHTS Association case (supra) is applicable to this case.*

4. *Accordingly the appeal is allowed and the judgment/order passed by the High Court under challenge is set aside.*

5. *However, we make it clear that if any of the respondents has drawn any amount on the basis of the higher scale of pay granted to him taking into account the adhoc service then the such amount already drawn by the employee shall not be recovered, though his cadre seniority and other consequential benefits will be governed by the decision rendered herein. No costs.”*

5. Impugned instructions and order have been issued in the light of legal position settled by the Hon’ble Supreme Court and do not call for any interference. However, if any excess amount has been paid to the petitioners, it shall not be recovered. In case any amount has been recovered pursuant to the impugned order, the same be refunded within four months of the communication of a copy of this order, failing which, respondents shall be liable to pay interest @ 6% per annum for the delayed period.

6. Petition is disposed of with the above directions.

(SUVIR SEHGAL)
JUDGE

28.04.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No