

Date of Decision : 29-08-2024

DR. PREM SAGARPetitioner
PUNJAB STATE & ANR.Respondent(s)

RAJ KUMARIPetitioner
STATE OF PUNJABRespondent

Mr. T.P.S Chawla, Sr. DAG Punjab.

Learned counsel for the respondents submit that the *ad hoc* service rendered by the petitioners cannot be taken into account for the grant of ACP as well as selection grade keeping in view the settled principle of law laid down by Hon'ble Supreme Court of India in Civil Appeal No.13423

of 1996 titled “***State of Haryana Vs. Haryana Veterinary and AHTS Association and anr.***”, decided on 19.09.2000.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

The only question of law which has been raised in the present bunch of petitions is whether the *ad hoc* service rendered prior to the regular appointment can be taken into account for grant of proficiency step up or the ACP. The principle of law on the said issue has already been settled by the judgment of Hon’ble Supreme Court of India while passing order in ***Haryana Veteriary Association’s case (supra)***, the relevant paragraph of which has been held as under:-

“Rule 11 provides for continuation on probation for a period of 2 years and Rule 12 is the Rule for seniority. A combined reading of the aforesaid provisions of the Recruitment Rules puts the controversy beyond any doubt and the only conclusion which could be drawn from the aforesaid Rules is that the services rendered either on ad hoc basis or as a stop-gap arrangement, as in the case in hand from 1980 to 1982 cannot be held to be regular service for getting the benefits of the revised scale of pay or of the selection grade under the Government Memoranda dated 2nd lune, 1989 and 16th May, 1990, and therefore, the majority judgment of the High Court must be held to be contrary to the aforesaid provisions of the Recruitment Rules, consequently cannot be sustained. The initial letter of appointment dated 6.12.1979 pursuance to which respondent Rakesh Kumar joined as an Assistant Engineer on ad hoc basis in 1980 was also placed before us. The said appointment letter unequivocally indicates that the offer of appointment as Assistant Engineer was on ad hoc basis and Clauses 1 to 4 of the said letter further provide

that the appointment will be on ad hoc basis for a period of 6 months from the date of joining and the salary was a fixed salary of Rs. 400/- p.m. in the scale of Rs. 400/- to Rs. 1100/- and the services were liable to be terminated without any notice and at any time without assigning any reason and that the appointment will not enable the appointee any seniority or any other benefit under the Services Rules for the time being in force and will not count towards increment in the time scale. 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 along with 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.”

Keeping in view of above, the prayer of the petitioner is contrary to the settled principle of law settled by the Hon’ble Supreme Court of India hence, the same cannot be accepted.

The present set of two writ petitions are accordingly dismissed.

Pending application, if any, also stands disposed of.

Photocopy of this order be placed on the files of other connected cases.

(HARSIMRAN SINGH SETHI)
JUDGE

29-08-2024
Sapna Goyal

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO