

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CWP-15697-1998
Decided on: 05.04.2024

Jasbir Singh and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Dhiraj Chawla, Advocate
for the petitioners.

Ms. Akshita Chauhan, DAG, Punjab

Mr. Amit Jaiswal, Advocate
for respondent Nos. 3 to 22.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing the impugned order dated 01.09.1998 (Annexure P-15) passed by respondent No. 1, whereby the claim of the petitioners to be treated as regular appointees w.e.f. the dates of their original appointments as Junior Draftsman has been rejected.
2. Learned counsel for the petitioners has submitted that as per the order dated 23.05.1980 (Annexure P-1), the President of India was pleased to constitute the Departmental Selection Committee for the Irrigation Department for the recruitment to Subordinate Services carrying an initial pay within the range of Rs.325 and 699 per month (both inclusive) and since specific categories were excluded and the said excluded categories did not include the category of Tracers, on which post the petitioners were working, as well as of Draftsmen and Junior

Engineers and thus, all three were to be selected by the said Departmental Selection Committee. It is submitted that vide advertisement dated 19.02.1981 (Annexure P-2), the Authorities invited applications for appointment to the post of Draftsmen and Tracers and in pursuance of the same, the petitioners applied for the post of Tracers and were thereafter, selected by the Departmental Selection Committee and were appointed as Tracers (Temporary) and the appointment letters issued in the case of petitioners appointed as Tracers (Annexure P-4) was on the same terms as those issued in favour of the Draftsmen dated 27.01.1982 (Annexure P-6). It is submitted that thereafter, the Draftsmen as well the Tracers were regularized but in the case of Draftsmen, a decision was taken that they would be treated as regular employees from the date of the initial appointment, whereas, the said benefit was not given to the petitioners who were appointed as Tracers, although, the petitioners were similarly placed as the said Draftsmen on all aspects. It is submitted that the petitioners, on the ground of parity, deserve to be treated as regularly appointed from the date of their initial appointment.

3. Learned counsel for the petitioners has next submitted that the petitioners have since retired and thus, at any rate, the temporary period of service rendered by the petitioners prior to the regularization of their services is required to be treated as qualifying service for the purpose of pensionary benefits and in support of his arguments has relied upon the judgment of the Full Bench of this Court in ***Kesar Chand Vs. State of Punjab, AIR 1988 P&H 265***. It is submitted that no specific decision regarding the said 2 aspects has been taken by the respondent-Authorities.

4. Learned State counsel, on the other hand, has referred to an order dated 19.12.2014 to argue that the case of the Draftsmen selected by the

Departmental Selection Committee is not on the same footing as that of the Draftsmen who were promoted from the posts of Tracers. It is further submitted that the Tracers are not similarly placed as the Draftsmen because the post of Draftsmen was excluded from the purview of the S.S.S. Board.

5. Learned counsel for the petitioners, in rebuttal, has submitted that the said decision is not with respect to the case of the petitioners since the petitioners were never promoted to the post of Draftsmen and have retired as Tracers and the case of the petitioners is that they are similarly placed as the Draftsmen having been selected by the same Departmental Selection Committee and should be given the same benefit as has been given to the Draftsmen. It is submitted that at any rate, the respondent-authorities are required to take a specific decision on the same two aspects raised by the petitioners.

6. Learned State counsel has submitted that the competent authority of the State of Punjab would take a specific decision on the said two aspects.

7. This Court has heard learned counsel for the parties and has perused the paperbook.

8. It is not in dispute that no specific decision has been taken by the respondent-Authorities on the issue as to whether the petitioners are entitled to the same relief as has been granted to the Draftsmen, i.e. being treated as regular appointees from the date of their original appointment, on the ground that the petitioners were appointed as Tracers by the same Departmental Selection Committee as were the Draftsmen and the terms and conditions as contained in the appointment letter of the Draftsmen were the same as that of the petitioners. Moreover, the aspect as to whether once the petitioners had retired from service, then services rendered by them on temporary basis prior to their being regularized

are to be treated as qualifying service for the purpose of pensionary benefits, is also required to be considered by the respondent-Authorities.

9. Keeping in view the abovesaid facts and circumstances, the present Civil Writ Petition is disposed of with a direction to the competent authority of respondent No. 1-State to consider both the abovesaid aspects within a period of three months from the date of receipt of certified copy of the present order and in case, the competent Authority of respondent No. 1 is of the view that either of the two pleas raised by the petitioners are found to be meritorious, then the competent authority of respondent No. 1 would grant necessary relief to the petitioners as expeditiously as possible and in case, the competent authority of respondent No. 1 is of the opinion that the said pleas raised by the petitioners are not meritorious then a speaking order rejecting the same be passed within a period of three months from the date of receipt of certified copy of the present order.

10. It is made clear that the plea of the petitioners with respect to payment of interest is kept open, as the same would be dependent upon the decision taken by the respondent-authorities and its legality.

05.04.2024
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/ No
Whether reportable?	Yes /No