

CWP-18133-1999(O&M) with

CWP-2160-2000(O&M)

-1-

2024.PHHC.150840



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

Date of Decision: 18.11.2024

1. CWP-18133-1999(O&M)

RAM CHANDER

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

2. CWP-2160-2000(O&M)

REKHA RANI

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Rajiv Sharma, Advocate
for the petitioner.(in CWP-18133-1999)

None for the petitioner. (in CWP-2160-2000)

Ms. Tanushree Gupta, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

These petitions have been filed, *inter alia*, seeking a writ of *certiorari* quashing condition (i) of the Policy dated 07.03.1996, Annexure P-7, whereby only such adhoc employees are required to be considered for regularisation who have completed two years' service on 31.01.1996, and were in service on that date. And break in service rendered on adhoc basis only up to a period of one month can be condoned, excluding the breaks occurring because of the concerned employee having left service of his own



volition. Both the petitions are based on similar facts; however, to decide the case, facts are being taken from CWP-18133-1999.

2. Learned counsel for the petitioner contends that the petitioner was initially appointed as Science Master on adhoc basis with effect from 05.02.1990 to 15.03.1990. The adhoc appointment was again offered to him for a period of six months vide office order dated 21.02.1994; pursuant thereto, he joined service on 02.03.1994. The respondents later issued the impugned Policy, dated 07.03.1996, for regularising adhoc employees on completion of two years services as on 31.01.1996. The only reason petitioner could not be considered for regularisation in terms thereof was that on the appointed day he did not have two years' service. The Policy wrongly provides for condoning one month break in service, there is no rationale for it. The benefit should be extended irrespective of the duration of break once the service has been rendered. And the petitioner's earlier adhoc service from 05.02.1990 to 15.03.1990, also deserves to be counted for regularisation especially when it has been counted towards increments and other service benefits.

3. *Per contra*, learned State counsel contends that the respondents have decided upon a cut-off date as 31.01.1996, for regularisation of adhoc employees by taking a conscious decision to that effect. Only one month break in service can be condoned to consider an adhoc employee for regularization, provided it has not been caused of his own volition; whereas in the petitioner's case there is break in services for about four years, which could not have been condoned in terms of conditions laid down in the Policy. She further contends, it has specifically been stated in the written statement that the petitioner's previous adhoc service was wrongly counted towards

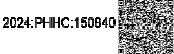


service benefits by the concerned officers in the absence of any rules or instructions to that effect. And their pay will be refixed after withdrawing the benefit of previous service wrongly counted.

4. Heard.

5. It is not in dispute that the petitioners in these two petitions initially worked in the Department as Science Master/S. S. Mistress on adhoc basis only for a period of about one month and nine days (in the first petition) and one month and twenty-four days (in the second petition); after gap of about four and ten years, respectively, they were issued fresh adhoc appointments without providing any continuity of service. Besides, in the absence of any provision in Rules or Regulations, the earlier service cannot be counted for any purpose, and the petitioners' claims to that effect have been rightly rejected by the respondents. In case they were wrongly given benefit of previous service by the concerned officers which the respondents had undertaken to correct, no benefit on that account could be claimed by the petitioners.

5.1 Further, a perusal of Policy, dated 07.03.1996, shows that the Department has notified 31.01.1996 as the cut-off date to consider adhoc employees for regularisation on fulfilment of the laid down conditions, which include minimum two years' service by that date. Apparently, there is nothing illegal or arbitrary about the cut-off date, nor any illegality could be pointed out by learned counsel for the petitioner. Even otherwise, whenever a cut-off date is fixed, there will always be employees who would not be able to meet that condition; this is an inherent contradiction which cannot be done away with. Therefore, merely on this account a cut-off date cannot be termed unreasonable. The employees not covered under the policy due to the cut-off



date could be considered in terms of any subsequent policy to be notified by the Government. Besides, the condition regarding condoning the breaks in service up to a period of one month can also not be termed arbitrary or illegal, as it is a beneficial provision to consider adhoc employees for regularisation irrespective of the breaks. The Department has taken a conscious decision to condone such breaks up to a period of one month, no exception can be taken to it, as there is nothing irrational about it; nor is there any justification to extend the break period to over three/four years to bring the petitioners within the zone of consideration for regularisation.

6. In view thereof, there is no ground to entertain the petition and it stands dismissed.
7. A photocopy of this order be placed on the connected case file.

(TRIBHUVAN DAHIYA)
JUDGE

18.11.2024
Ad

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