



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CWP No. 5634 of 2000 (O&M)

DECIDED ON: 8th August, 2024

Satnam Singh Beldar and others

.....PETITIONERS

VERSUS

State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naresh Kumar, Advocate for petitioner.
Mr. TPS Chawla, Sr. DAG Punjab.

HARSIMRAN SINGH SETHI, J (ORAL)

In the present petition, the grievance being raised by the petitioners is that the ad hoc service which were rendered by the petitioners prior to the regularization of their services, should be taken into account as the qualifying service for the purpose of the grant of seniority, increment as well as the pensionary benefits.

2. Learned counsel for petitioners submits that once the petitioners were initially appointed after being recommended through the employment exchange, and the petitioners continued working till the regularization of their services, the petitioners were entitled for the grant of the benefit of the ad hoc service keeping in view the judgment of Hon'ble the Supreme Court of India pertaining to direct recruitment, in *Director Class-II Engineering Officers Association Versus State of Maharashtra, 1990 Vol-II SCC 751* which judgment has subsequently been followed by the Hon'ble Supreme Court in *Writ Petition (Civil) No. 43 of 1998, decided on 4.12.2002 titled as Dr. Chandra Prakash Versus State of U.P.*

3. Learned counsel for the respondents on the other hand submits that after considering the judgment of Hon'ble the Supreme Court of India in

Direct Recruitment's case (supra), Hon'ble Supreme Court of India while deciding Civil Appeal No.6026-6028-2021 decided on 28.9.2021, has held that even if, the ad hoc appointment was made after notifying the vacancies to the employment exchange or the advertisement but the said appointment was not made on the recommendation of the Punjab Subordinate Services Selection Board, the said appointment cannot be treated as a valid appointment so as to grant the benefit of increment or the seniority and therefore, the present petition is liable to be dismissed keeping in view the judgment of Hon'ble the Supreme Court of India in ***Malook Singh and others Versus State of Punjab and others Civil Appeal Nos.6026-6028 of 2021.***

4. I have heard the learned counsel for the parties and have gone through the record with their able assistance.

5. The question of law whether, the ad hoc service is to be taken into account for the grant of increment as well as the pensionary benefits as already been settled by the Hon'ble Supreme Court of India more than once, in a latest judgment in Malook Singh (supra), after considering the judgment in Direct Recruitment (supra), the Hon'ble Supreme Court of India has held that once their appointment has not been made on the recommendation of the selecting agency notified for the selection purpose, the said appointment cannot be treated as a valid one so as to grant the benefit of increment and seniority, no benefit can be given to the petitioners in the present petition.

6. Learned counsel for the petitioner has not been able to dispute the fact that as per the judgment in Malook Singh's case (supra) where also, the employee has joined after the vacancies were notified through the employment exchange and the vacancies have also been advertised but still the benefit of seniority was declined qua the ad hoc service rendered, the claim of the petitioners cannot be accepted.

7. With regard to the claim of the petitioners that similar relief was granted by Hon'ble the Supreme Court of India in Dr. Chandra Prakash (supra), it may be noticed that the said judgment was also based upon the judgment in Direct Recruitment (supra), which judgment has also been considered by Hon'ble the Supreme Court of India in Malook Singh's case (supra) as well and held that the appointment has not been made after recommendation of Punjab Subordinate Selection Board, the said appointment cannot be treated as valid. Hence, once a specific case relating to State of Punjab has been decided by Hon'ble the Supreme Court of India wherein the similar claim has already been rejected, the claim of the petitioners cannot be accepted. Even otherwise in Dr. Chandra Prakash (supra) employees were recommended/selected in the commission, which fact is missing in the present case.

8. No other arguments has been raised.

9. Keeping in view the above facts and circumstances mentioned above, no ground is made out for the grant of relief as prayed in the present petition and the same is accordingly dismissed.

10. It may be notified that the claim of the petitioners qua grant of benefit of ad hoc services only for the grant of seniority, pay protection and the grant of increment has been rejected but the service rendered on ad hoc basis is to be counted for the grant of pensionary benefits keeping in view the judgment of the Full Bench of this Court in Kesar Chand (supra).

11. Pending Misc. application, if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

8th August, 2024
reema

Whether speaking/reasoned	Yes
Whether reportable	No