

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-23293-2019 (O&M)
Date of decision: 10.05.2024

Jaspreet Singh
...Petitioner
Versus

Union of India and Others
...Respondents

CWP-8607-2020 (O&M)

Sewak Singh and Another
...Petitioners
Versus

State of Punjab and Others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. R.K. Arora and Mr. Jugam Arora, Advocates for the petitioners

Mr. Manipal Singh Atwal, DAG Punjab

Mr. Sandeep Bhatia, Sr. Standing Counsel for UOI
in CWP-23293-2019

Mr. Sudhir Mor, Sr. Panel Counsel for respondent Nos.1 and 2
in CWP-8607-2020

AMAN CHAUDHARY. J.

1. These cases involve similar issues and therefore, are being disposed of together by way of a common judgment.
2. The preliminary objection that has been taken by the respondents in the case of Jaspreet Singh is that the issue involved herein has already been adjudicated against him by this Court vide judgment dated 04.05.2016 passed in his previous CWP No.21545-2012, thus, the present petition is barred by principle of res judicata. The aforesaid has attained finality, no challenge to it having been made. The said judgment reads thus:

“The petitioner has not been able to establish that he is a servant of the Government of Punjab and holds a job directly

under the State. He has come through a Centrally Sponsored Scheme promulgated in the Sports Department in the State of Punjab by the Government of India. If, there is no direct relationship between the petitioner and the State Government creating relationship protected under Article 311 of the Constitution of India, then it is not possible to accede to his request to the State to direct the Sports Department for appointing the petitioner by way of transfer to the department of Economic and Statistical Organization, Department of Planning, Government of Punjab. In the absence of the essential features of employment under the State demonstrating relationship of directly recruited employee by the Punjab Government, interference would not be called for merely because his probation period stands cleared on expiration of two years. The last contention to claim relief is based on office order Annex P-5 which speaks of making the persons named therein including the petitioner placed at Sr. No.18 as permanent w.e.f. 14.11.1991. However, the learned State counsel points out from the seniority list which shows that there is only one isolated post of Statistical Assistant which is occupied by the petitioner. Therefore, it cannot be said that there is common seniority list for the petitioner to take advantage of. There is a difference of concept between “permanency” and a seniority list, governed by different principles. The petitioner cannot claim appointment by transfer as a matter of right. There is no obligation cast of the respondent sports department to make way to the relief claimed. No merit. Dismissed.”

3. In **P. Bandopadhyaya vs. Union of India**, (2019) 13 SCC 42, Hon’ble the Supreme Court, while relying on the Constitution Bench in **Direct Recruit Class II Engg. Officers' Assn. vs. State of Maharashtra** (1990) 2 SCC 715, observed that, “Albeit the decision of the Constitution Bench was in the context of a writ petition filed under Article 32, it would apply with greater force to bar a writ petition filed under Article 226, like the one filed by the present appellants, by the operation of the principle of res judicata.” It was thus, held that the binding character of judgments of the Courts of competent jurisdiction was in essence a part of the Rule of Law, on which the administration of justice, as emphasised by the Constitution is founded. A judgment of the High Court passed after a hearing on the merits must bind the parties till set aside in appeal.

4. Admittedly, petitioners-Sevak Singh, Kharak Singh in the connected case, were appointed pursuant to the same advertisement dated 20.08.1988, as that

of Jaspreet Singh and the prayer made by them also stems out from the same facts and circumstances, as such, they would sink and swim together. The State in its preliminary submission has taken a plea that the issue involved already stands adjudicated, rejecting the claim of petitioner-Jaspreet Singh, who was a similarly situated employee of the same Department. Therefore, the findings recorded by this Court in the said case, as reproduced above, equally stare in their face, which despite best efforts could not be dispelled.

- 5. In view of the above, both these writ petitions are hereby dismissed.
- 6. Copy of the judgment be placed on the file of the connected case.

(AMAN CHAUDHARY)
JUDGE

10.05.2024
M.Kamra

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