

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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2024:PHHC:027814-DB
LPA-1028-2021 (O & M)
Date of Decision: 28.02.2024

Parmod Kumar

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. S.P. Laler, Advocate,
and Mr. Shubhan Saroha, Advocate, for the appellant.

Mr. Deepak Balyan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

CM-999-LPA-2024

1. Application for placing on record the judgment dated 24.03.2017 in CWP-24340-2016 as Annexure A-1 is allowed, subject to all just exceptions.
2. The same is taken on record.
3. CM stands disposed of.

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4. Consideration in the present letters patent appeal is to the order dated 28.02.2020 passed by the learned Single Judge in CWP-19088-2003, Parmod Kumar vs. State of Haryana and another whereby the writ petition was dismissed and the prayer for grant of the benefit of the *ad hoc* service towards retiral benefits and annual increments between 14.12.1984 to 07.01.1987 was declined. Resultantly, the order dated 29.05.2001 (Annexure P-4) passed by the respondents was upheld.

5. The learned Single Judge relied upon the provisions of Rule 4.23 of the Punjab Civil Services Rules, Vol. II, Part I (as applicable to Haryana) to come to the said conclusion which provided that the first condition is that the service

should be of 5 years' duration and secondly, the interruption has to be of not more than one year's duration. In the present case, the petitioner was appointed on regular basis on 02.04.1992 as Assistant District Attorney i.e. much after a period of one year. It is in such circumstances, the relief has been declined by the learned Single Judge which is based on the Punjab Civil Services Rules (Vol.II Part I) (as applicable to Haryana).

6. Another factor which weighed with the learned Single Judge was that the earlier service was *ad hoc* and the Rule talked about the interruption in service between a permanent and a temporary service, which was an additional ground as such. In *Harphul Singh (Subedar) vs. State of Haryana, 1994 (2) RSJ 148*, the learned Single Judge of this Court was also considering a similar proposition and declined the benefit by holding that the break cannot be condoned as the service of the petitioner preceding the interruption was less than 5 years.

7. In the present case also, the service of the writ petitioner, as noticed, is of approximately a little over two years and, thus, keeping in view the mandate of the Rule as such, the learned Single Judge has declined the relief. It is settled principle that the benefit would have only been granted if there was any Rule in favour of the writ petitioner on the basis of which the Court could have passed a positive order. Even the Rule otherwise is conditional and having the necessary pre-requisites would be mandatory and, therefore, the writ-petitioner/appellant cannot be held entitled for the said relief.

8. Accordingly, finding no merit in the appeal, the same stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

28.02.2024

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Whether reasoned/speaking

Whether reportable

(LAPITA BANERJI)
JUDGE

Yes

No