



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

710

CWP-7755-2006

Date of decision: 18.09.2024

Ishwar Singh

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing the impugned order dated 21.04.2006 and order of re-fixation dated 24.04.2006 as also the recovery thereof.

2. Learned counsel submits that the petitioner, who was working as Diesel Pump Attendant, had previously filed CWP-13153-2002, which was disposed of on 02.05.2005, Annexure P-6, directing the respondents to grant the benefit of pay fixation, which was granted alongwith ACP and increments of 8 and 18 years vide order dated 22.07.2005, Annexure P-9, by considering the adhoc service as regular, however the same was sought to be withdrawn on 21.04.2006, Annexure P-10, consequent to which the pay was re-fixed. This was made the subject matter of challenge in this case. However, he alongwith Hanumant Singh filed CWP-8833-1999, which was disposed of with direction that the respondents would decide the seniority dispute. Thereafter, by filing CWP-7862-2006, titled as **Hanumant Singh and others vs. State of Haryana and others**, approached this Court challenging the same order dated 10.05.2006 withdrawing the ACP/Higher Standard Pay Scale, which was allowed on 04.07.2008, against which SLP was dismissed on 10.05.2018 alongwith a batch of appeals with the lead case being C.A. No.321 of 2015, titled as State of Haryana and others vs. Rajender Kumar and others, relevant paras of **Hanumant Singh** (supra) read thus:-

“The following questions need to be answered, after hearing both sides:



1. Whether ad hoc service/work charged service, followed by regular service, can be counted for the purposes of grant of higher pay scale/benefit of Assured Career Progression on completion of 8/18 or 10/20 years of service?
2. Whether ad hoc service/work charged service, followed by regular service, can be counted for the purpose of grant of additional increment in the running scale on completion of 10/20 years or 8/18 years of service ?
3. Whether ad hoc/ work charged service, followed by regular service, is to be counted for the purpose of pension and seniority?

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The State Government has extended the benefit of work charged service followed by regular service for the purpose of grant of additional increment on completion of 8/18 years of service vide instructions dated 7.8.1992, keeping in view Ravinder Kumar's case (supra). However, the said benefit has been declined to the ad hoc service followed by regular service. The said distinction drawn by the Government is imaginary and is not in consonance with the authority in Ravinder Kumar's case (supra). Ad hoc service, followed by regular service, is as good as work charged service, followed by regular service. So, the said distinction does not stand the test of legal scrutiny.

The pay scales mentioned in circulars dated 14.5.1991 and 7.8.1992 were given to class 'C' and 'D' employees on completion of service mentioned in those circulars. In authority reported in Ravinder Kumar's case (supra), the Hon'ble Apex Court has held that the employees are entitled to count ad hoc/work charged service for the purposes of grant of additional increment after completion of 10/20 years of service or 8/18 years of service. However, the Apex Court in Haryana Veterinary and AHTS Association and others's case (supra), has categorically held that the employees are not entitled to count ad hoc service for the purpose of grant of higher scale/ACP scale. So, we are of the considered opinion that keeping in view the above-said authority, ad hoc service/work charged service has to be counted for the purpose of grant of additional increment after completion of 10/20 years of service or 8/18 years of service as detailed in the circular mentioned above. It is further held that the said ad hoc service/work charged service followed



by regular service is also to be counted for the purpose of seniority and pension.

So far as authority State of Rajasthan and others v. Farooq Ahmed and another, 2005(2) SCT 522 : 2005(2) Recent Services Judgments 721 is concerned, the same is distinguishable as in that authority itself, it has been mentioned that counting of ad hoc service depends upon the circular issued by the Government. The circulars issued by the State of Rajasthan are not same as that of circulars issued by the State of Haryana. The relevant portion is given as under:

"The Supreme Court in State of Haryana v. Haryana Veterinary & AHTS Association and another, 2000(4) SCT 664 : 2000(8) SCC 4, held that service rendered on ad hoc basis will not be counted for grant of selection scale. A Division Bench, however, in State of Rajasthan v. Uma Shanker Agarwal & Ors., (D.B Civil Special Appeal No. 1142/2002) had distinguished the judgment of the Supreme Court and took the view that the period of ad hoc service rendered by an employee should be counted for the purpose of granting him selection scale. This view was taken on the ground that the Haryana Rules on the basis of which AHTS case was decided by the Supreme Court were different than the rules with which we are concerned. Two of us doubting the correctness of the view of the earlier Division Bench referred the matters to the Full Bench. This is how the matters have come up before us."

So far as reliance of petitioners on Civil Writ Petition No. 8833 of 1999 titled Hanumant Singh and others v. State of Haryana and another is concerned, that authority does not help the petitioners as in that case the writ petition was disposed of with the direction that the respondents shall decide the dispute of petitioners regarding seniority within four to six months.

The petitioners also cannot have any benefit of authority reported as Union of India v. Madras Telephone SC & ST Social Welfare Association, 2006(4) SCT 504 : 2007(1) Recent Services Judgments 111 as no benefit has been given to any of the petitioners under the order of the Court.



In the said authority, it has been laid down that any benefit given to the employee under the order of the Court cannot be taken away on account of change of law subsequently.

Therefore, in view of the above discussion, question No. 1, referred to above, stands answered against the petitioners whereas question Nos. 2 and 3 stand answered in favour of the petitioners and against the respondents and it is held as under :-

(a) ad hoc/work charged service followed by regular service shall not be counted for the purposes of grant of higher pay scale/benefit of Assured Career Progression Scheme on completion of 8/18 or 10/20 years of service.

(b) ad hoc/work charged service followed by regular service shall be counted for the purposes of grant of additional increment in the running scale on completion of 10/20 or 8/18 years of service.

(c) ad hoc service followed by regular service shall be counted for the purposes of pension and seniority.

So, all these writ petitions stand disposed of with the above-said observations. The respondents are directed to fix the salary of the petitioners, after taking into account the above-said observations.”

3. Learned State counsel is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Hanumant Singh** (supra).

(AMAN CHAUDHARY)
JUDGE

18.09.2024
Hemant

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