



CWP-11558-2012 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-11558-2012 (O&M)
Date of Decision: 17.07.2024

Davender Gera

..... Petitioner

Versus

Haryana State Legal Services Authority

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. A.P. Bhandari, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. AG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondent to release all the service benefits of the petitioner as the same have been illegally and arbitrarily withhold without the authority of law and the petitioner is also entitled for continuation/regularisation of his services.

2. Learned counsel for the petitioner submitted that the petitioner was appointed on 04.02.2009 as an Accountant on *ad hoc basis* for a period of six months vide Annexure P-1 and thereafter, his tenure was extended for another period of six months vide Annexure P-2 on 08.08.2011 and again it was extended vide Annexure P-3 till 19.02.2012 but thereafter neither any termination order has been passed nor he has been permitted to continue the service. He further submitted that in this way the rights of the petitioner has been affected and a direction may be issued for regularization of the petitioner on the post of Accountant and also direct them to permit him to



continue on the aforesaid post. He also submitted that apart from the above, at the time when the petitioner had actually worked in pursuance of the aforesaid orders, he has not been paid the benefit of children education allowance, annual increment, leave encashment and also the pay-scale on the basis of the 6th Pay Commission which otherwise also the petitioner was entitled in accordance with law and regarding that as well a direction may be issued to the respondent.

3. On the other hand, Ms. Rajni Gupta, learned Addl. AG, Haryana submitted that the petitioner was working on a tenure post for a fixed period and it was so specifically incorporated that it is for a period of six months w.e.f. 20.08.2011 to 19.02.2012 or till the time the post is filled by regular incumbent whichever is earlier as per Annexure P-2 and thereafter, it is clear from Annexure P-3 that a regular incumbent has come on a regular post and so far as the petitioner is concerned, till he was directed to be continued on *ad hoc* basis on the post of Accountant but to work against the higher post of Deputy Superintendent vide Annexure P-3 but the same was also till 19.02.2012 and thereafter, it expired and therefore, no specific order of termination of service was required to be passed since it was a tenure post and rather extra benefit has already been given to the petitioner despite the fact that the regular incumbent has come but since there was a requirement of work for the post of Deputy Superintendent he was directed to work on *ad hoc* basis on the higher post of Deputy Superintendent to which he worked till 19.02.2012 and therefore, neither the prayer of the petitioner for the grant of regularization is made out nor it can be said that any specific order of termination was required to be passed



because the tenure appointment has been extinguished on 19.02.2012. She further submitted that so far as the second prayer made by the learned counsel for the petitioner that at the time when he discharged his duties, the various benefits as aforesaid have not been paid is concerned, to which the respondent will consider the same and pass a speaking order on the same and in case any amount is still due to the petitioner, then the same will be paid to the petitioner within a period of two months from the passing of the order along with interest.

4. I have heard the learned counsels for the parties.

5. A perusal of the orders passed vide Annexures P-1 to P-3 would show that the petitioner was initially appointed on *ad hoc* basis for a period of six months and thereafter, it was extended for another six months or till the regular incumbent joins. Thereafter, as per Annexure P-3, the regular incumbent has joined but the petitioner was still directed to continue to work against the post of Deputy Superintendent and it was allowed only till 19.02.2012 and till that time he had worked. Once it was a tenure appointment for a fixed period on *ad hoc* basis, then the same could not be extended by the competent authority because the regular incumbent had joined, then there is no need to have passed a specific order of termination because the right had extinguished on the expiry of the aforesaid tenure period. Therefore, the plea of the petitioner for seeking direction for continuation on the post for regularization is not sustainable.

6. So far as the second prayer of the petitioner is concerned, with regard to the non-grant of the service benefits i.e. children education allowance, annual increment, leave encashment and also the pay-scale on the



basis of 6th Pay Commission is concerned, the learned State Counsel has already submitted that the same will be considered and a speaking order will be passed in this regard.

7. In view of the above, the present petition is partly allowed. The respondent is directed to consider the aforesaid prayer of the petitioner pertaining to the service benefits i.e. children education allowance, annual increment, leave encashment and also the pay-scale on the basis of the 6th Pay Commission or any other amount which was admissible to the petitioner but has not been paid to him and pass a speaking order within a period of two months from today.

8. In case, the petitioner is found to be entitled for the aforesaid amount, then the same shall be paid to him within a period of two months thereafter along with interest @ 6% per annum.

17.07.2024

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No