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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1)

CWP-459-2014 (O&M)
Date of Decision:11.01.2024

RAJESH KUMAR & ORS

..... Petitioners

Versus

UNION OF INDIA & ORS

..... Respondents

2)

CWP-879-2014

INDUJEET SINGH

.....Petitioner

Versus

UNION OF INDIA THR SECRETARY TO GOVT OF INDIA
MINISTRY OF DEFENCE NEW DELHI & ANR

.....Respondents

3)

CWP-27975-2023

JASWANT SINGH AND ORS

.....Petitioners

Versus

UNION OF INDIA AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Jatin Salwan, Advocate for the petitioner(s).

Ms. Anita Balyan, Senior Panel Counsel
for the respondents-UOI.

JAGMOHAN BANSAL, J. (Oral)

1.
- By this common order CWP-459-2014, CWP-879-2014 and CWP-27975-2023 are hereby disposed of since issue involved in all the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-459-2014.
2.
- The petitioners were selected in April’ 2002 on the post of Conversancy Safaiwala/Safaiwali, however, appointment letters were not issued to them. The respondent at the same moment initiated selection

process with respect to Ferozepur Unit as well as Bathinda Unit. The petitioners preferred *CWP No.14794 of 2004* before this Court seeking direction to respondents to issue appointment letter. The said petition came to be disposed of vide order dated 08.11.2005.

The petitioners preferred contempt petition before this Court on account of non-compliance of orders passed in aforesaid writ petition. The respondents preferred SLP before Supreme Court which came to be disposed of in the wake of statement made by the respondents. The respondents after dismissal of SLP issued appointment letters to the petitioners in 2010. The grievance of the petitioners, at this stage, is that the notional date of appointment of petitioners may be considered as April' 2002 instead of 2010.

3. The order dated 08.11.2005 passed by this Court in CWP No.14794 of 2004 reads as:

“Mr. Taank, the learned counsel for the respondents state that the respondents have already written to the Ministry of Defence to relax the ban on the fresh recruitment so that the petitioner can be adjusted against the posts for which they have been selected. It has also been pointed out by Mr. Jatin Salwan, the learned counsel for the petitioners that some of the persons selected alongwith the petitioners had already been given appointment and continued refusal of the respondents to given appointment to the petitioners was therefore, unjustified.

We accordingly dispose of this matter with a direction to the respondents that the required no objection certificate shall be issued within three months from today.

Disposed of in the above terms, Dasti.”

4. The order dated 23.07.2010 passed by Supreme Court reads as:

“Learned Additional Solicitor General has filed in Court a Status Report wherein it is stated that the Safaiwala at Station Head Quarters, Bhathinda was examined in consultation with the Department of Expenditure. The Ministry of Finance, Department of Expenditure having approved the regularization of the said 78 persons vide their ID dated 11th August, 2009, the said 78 persons have since been appointed as conservancy Safaiwal at the Station Head Quarters at Bhathinda.

In the light of the said Status Report, no further orders are called for in the present petition and the same shall stand disposed of, keeping open the question of law sought to be raised in the petition.”

5. Learned counsel for the petitioner submits that in view of instructions dated 17.02.2020 issued by Government of India, Department of Pension and PW, the petitioners deserve deem to be recruited before 01.01.2004.

6. The Government of India has issued instructions dated 17.02.2020 with respect to date of employment of its employees where part of the selection process took place before 01.01.2004 and completed after 01.01.2004. The relevant extracts of the instructions reads as:

“3. From the representations of the Government employees and the references received from Ministries/Departments, it has been observed that in many of the cases referred to this Department, selection process (including written examination, interview and declaration of result) for recruitment had been completed before 01.01.2004 but the

employee joined the Government service on or after 01.01.2004. A few illustrations where the selection was finalized before 01.01.2004 but actual joining took place on or after 01.01.2004 are as under:

(i) The result for recruitment was declared before 01.01.2004 but the offer of appointment and actual joining of the Government servant was delayed on account of police verification, medical examination etc.

(ii) Some of the candidates selected through a common selection process were issued offers of appointments and were also appointed before 01.01.2004 whereas the offers of appointment to other selected candidates were issued on or after 1.1.2004 due to administrative reasons/constraints including pending Court/CAT cases.

(iii) Candidates: selected before 01.01.2004 through a common competitive examination were allocated different Departments/organization. While recruitment process was completed by some Department(s) / organizations on or before 31.12.2003 in respect of one or more candidates, the offers appointment to the candidates allocated to the other Departments / organization were issued on or after 01.01.2004.

(iv) Offers of appointment to selected candidates were made before 01.01.2004 with a direction to join on or after 01.01,2004.

(v) Offers of appointment were issued to selected candidates before 01.01.2004, and many/most candidates joined service before 01,01.2004. However, some candidate(s) were allowed extension of joining time and they joined service on or after 01.01.2004. However, their seniority was either unaffected or was depressed in the same batch or to a

subsequent batch, the result for which subsequent batch was declared before 01.01.2004.

(vi) The result for recruitment was declared before 01.01.2004 but one or more candidates were declared disqualified on the grounds of medical fitness or verification of character and antecedents, caste or income certificates. Subsequently, on review, they were found fit for appointment and were issued offers of appointment on or after 01.01.2004.

In all the above illustrative cases, since the result for recruitment was declared before 01.01.2004, denial of the benefit of pension under CCS (Pension) Rules, 1972 to the affected Government servants is not considered justified.”

7. Faced with this, learned counsel for the respondents submits that case of the petitioners for the purpose of pension would be considered in the light of aforesaid instructions and for the said purpose an appropriate order would be passed.

8. In the wake of statement of both sides, the present petitions stand disposed of. Let the needful be done within 6 months from today.

9. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

11.01.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No