



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

Date of Decision : 17-03-2025

1. **CWP-5769-1999 (O&M)**

SHIV KUMAR SHARMA **.....Petitioner**

VERSUS

STATE OF PUNJAB AND ANR.

.....Respondent(s)

And

2. **CWP-19764-1998 (O&M)**

SUDHIR KUMAR ARORA AND ORS. **.....Petitioner**

VERSUS

STATE OF PUNJAB AND ORS.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETH

Present: Mr. Naresh Kumar, Advocate
 For Mr. K.S Dadwal, Advocate for the petitioner.

Mr. T.P.S Chawla, Sr. DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present are the set of two writ petitions of which details are mentioned in the heading, involve common question of law in the context of common set of facts and thus they are being decided by a common order

2. In the present set of two petitions, the prayer of the petitioner(s) is for grant of benefit of proficiency step up after counting the *ad hoc* service rendered by the petitioner(s).

3. Learned counsel for the petitioner(s) submits that the petitioners are entitled for the grant of Senior Scale of Rs.3000-4500 on completion of 8 years of service, also the arrears alongwith the interest at the rate of 12% p.a., which has not been granted.

4. Learned counsel for the petitioner(s) submits that the prayer of the petitioner(s) be accepted and the respondents be directed to grant the benefit of proficiency step up/Senior Scale of Rs.3000-4500 on completion of 8 years of service from the date the petitioner(s) were initially appointed on *ad hoc* service.

5. Learned counsel for the respondent-State submits that the claim which has been raised by the petitioner(s) is contrary to the settled by the Hon'ble Supreme Court of India in Civil Appeal No.13423 of 1996 titled ***"State of Haryana Vs. Haryana Veterinary and A.H.T.S Association"***, decided on 19.09.2000, wherein it has already been held the *ad hoc* service cannot be taken into account for the grant of proficiency step up or even the ACP hence, the present set of petitions are liable to be dismissed.

6. Learned counsel for the respondent-State further submits that even otherwise, the *ad hoc* service rendered by the petitioner(s) is not continuous hence, the said benefit cannot be granted.

7. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

8. The only question which has been raised before this Court is whether, the *ad hoc* service rendered is to be taken into account for the grant of benefit of Senior Scale of Rs.3000-4500/- ACP. The law on the said issue has already been settled by ***Haryana Veterinary's case (supra)***. The relevant paragraph No.8 of the said judgment is as under:-

“Rule 11 provides for continuation on probation for a period of 2 years and Rule 12 is the Rule for seniority. A combined reading of the aforesaid provisions of the Recruitment Rules puts the controversy beyond any doubt and the only conclusion which could be drawn from the aforesaid Rules that services rendered either on ad hoc basis or as a stop-gap arrangement, as in the case in hand from 1980 to 1982 cannot be held to be regular service getting the benefits of the revised scale of pay or of the selection grade under the Government Memoranda dated 2nd June, 1989 and 18th May 1990, therefore, the majority judgment of the High Court must be held to be contrary to the aforesaid provisions of the Recruitment Rules, consequently com be sustained. The initial letter of appointment dated 6.12.1979 pursuance to which respondent Rakesh Kumar joined as an Assistant Engineer on ad basis in 1980 was also placed before us. The said appointment letter unequivocally indicates that the offer of appointment as Assistant Engineer was hoc basis and Clauses 1 to 4 of the said letter further provide that the appointment will be on ad hoc basis for a period of 6 months from the date of o and the salary was a fixed salary of Rs. 400/- p.m. in the scale of Rs. 400/- to Rs. 1100/- and the services were liable to be terminated without any notice at any time without assigning any reason and that the appointment will not enable the appointee any seniority or any other benefit under the Se Rules for the time being in force and will not count towards increment in the time scale. In view of the aforesaid stipulations in the offer of

appointment itself we really fail to understand as to how the aforesaid period of service rendered on ad hoc basis can be held to be service on regular basis. The conclusion of the High Court is contrary to the very terms and conditions stipulated in the offer of appointment and, therefore, the same is sustained. The regular letter of appointment dated 29.1.1982 in favour of Rakesh Kumar was also produced before us and that letter indicates respondent Rakesh Kumar alongwith others had applied to the Secretary, Haryana Public Service Commission for being appointed as an Assistant Engineer and the Service Commission after selecting the number of persons prepared a list and appointment letters were issued by the Government from list on the basis of the merit position of different candidates. Thus the appointment of respondent Rakesh Kumar was a fresh appointment in accordance with the Statutory Rules after the Public Service Commission adjudged their suitability and the regular service of the respondent Rakesh Kumar must be counted from the date he joins the post pursuant to the offer of appointment dated 29.1.1982 and the prior service rendered by him on ad hoc basis cannot be held to be regular service nor can it be tagged on to the later service for earning the benefit under the Government Circular dated 2nd June, 1989 as well as the Clarificatory Circular dated 16th May, 1990. The conclusion of the majority judgment of the High Court, therefore, is wholly erroneous and cannot be sustained.”

9. Learned counsel for the petitioner(s) has not been able to rebut that keeping in view the settled principle of law noticed hereinbefore, the claim of the petitioner(s) is not admissible.
10. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.
11. Present set of petitions stands dismissed.

12. Pending application, if any, also stands disposed of.
13. Photocopy of this order be placed on the file of other connected case.

17-03-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO