



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
105+246(2)

Decided on :18.03.2025

**CM-15143-CWP-2024 AND
CM-15048-CWP-2024 IN/AND
CWP-20177-2017 (O&M)**

AJAIB SINGH AND OTHERS . .Petitioners
Versus

STATE OF PUNJAB AND ANOTHER
. . . Respondents

CWP-129-2012 (O&M)

SURJEET SINGH GILL . .Petitioner
Versus

STATE OF PUNJAB AND ANOTHER
. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: None for the petitioner(s) in both cases.

Mr. TPS Chawla, Sr. DAG, Punjab.

HARSIMRAN SINGH SETHI , J. (Oral)

1. Despite the present cases have been called twice, no one has appeared on behalf of the petitioners in both cases.
2. The only claim being raised by the petitioners in the present cases is that they should be given the benefit of continuity in service on the post of Sub-Divisional Engineer from the date of their initial appointment by taking into consideration the ad-hoc services rendered by the petitioners and grant the petitioners the benefit of higher pay-scale alongwith all consequential benefits. .



3. In reply to the said claim of the petitioner, the respondent-State has submitted before this Court that the promotion of the petitioners on the post of Sub-Divisional Engineer was against the direct quota post and that too on temporary basis and it is only when the post in its own promotion quota became available/vacant, the petitioners were promoted on regular basis from which date the benefits have already been given to the petitioners.

4. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

5. The contention raised by the petitioners is that whether the total length of service was taken into account for the grant of the benefit of higher pay-scale/ACP or not and that their ad-hoc services should also be taken into account for the said benefit.

6. The question which has been raised by the petitioners is no longer res integra and has already been decided by the Hon'ble Supreme Court of India in Civil Appeal No. 13423 of 1996 titled as ***State of Haryana Vs. Haryana Veterinary and A.H.T.S. Association***, decided on 19.09.2000, holding that the *ad hoc* service rendered by an employee cannot be taken into account for the grant of ACP as well as selection grade. The relevant para of the 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 is that the 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 for getting the benefits of the revised scale of pay or of the selection grade under the Government Memoranda dated 2nd June, 1989 and 16th May, 1990, and therefore, the majority judgment of the High Court must be held to be contrary to the aforesaid provisions of the Recruitment Rules, consequently cannot be sustained. The initial letter of appointment dated 6.12.1979 pursuance to which respondent Rakesh Kumar joined as an Assistant Engineer on ad hoc basis in 1980 was also placed before us. The said appointment letter unequivocally indicates that the offer of appointment as Assistant Engineer was on ad 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 joining 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 and at any time without assigning any reason and that the appointment will not enable the appointee any seniority or any other benefit under the Services 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 cannot be sustained. The regular letter of appointment dated 29.1.1982 in favour of Rakesh Kumar was also produced before us and that letter indicates that the 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 the said 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.



7. Probably, keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in *Haryana Veterinary Association's case (supra)* which denies the claim of the petitioners, the petitioners might not be interested in pursuing the present petitions.
8. Present petitions are dismissed for non-prosecution.
9. Pending miscellaneous application, if any, also stands disposed of.
10. A photocopy of this order be placed on the file of connected case.

(HARSIMRAN SINGH SETHI)
JUDGE

18.03.2025

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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*