

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

RSA-2561-1996 (O&M)**Punjab State Electricity Board and others**

. . . . Appellants

Vs.**Gurdial Singh**

. . . . Respondent

Reserved on: 20.03.2026**Pronounced on: 01.04.2026****Pronounced Fully/Operative Part: Fully**

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Abhimanyu Jangra, Advocate, for
Mr. Karan Kaushal, Advocate, for the appellants.

Mr. Gurvinder Pal Singh, Advocate, for
Mr. P.S. Khurana, Advocate, for the respondent.

DEEPAK GUPTA, J.

The present Regular Second Appeal has been preferred by the defendant–Punjab State Electricity Board against the judgment and decree dated 09.04.1996 passed by the learned Additional District Judge, Ferozepur, whereby the appeal filed by the plaintiff–Gurdial Singh was accepted and the suit for declaration and for grant of permanent injunction was decreed, reversing the judgment of the trial Court dated 28.10.1995.

2. For the sake of convenience, the parties shall be referred to as per their status before the trial Court. Trial Court record, available on DMS, has been perused.

3. The facts, in brief, are that the plaintiff was initially engaged as a Junior Draftsman on ad hoc basis with effect from 15.06.1977. Subsequently, the defendant-board issued an advertisement dated 04.02.1980 inviting applications for 15 posts of Junior Draftsman. The advertisement specifically

permitted those incumbents, who were already working on ad hoc basis at Guru Nanak Dev Thermal Plant, Bathinda, to apply, irrespective of the prescribed qualifications or age. The plaintiff applied pursuant to the said advertisement and was appointed on regular basis on 31.07.1980.

4. The grievance of the plaintiff is that his services ought to have been counted from 15.06.1977, i.e. the date of his initial ad hoc appointment, for the purposes of seniority, promotion and other consequential benefits. According to him, the action of the defendant-board in reckoning his service only from 31.07.1980 is illegal and arbitrary. As representations made by him were rejected, the plaintiff instituted the present suit seeking a declaration to the aforesaid effect along with consequential relief of injunction.

5. The defendant-board contested the suit, asserting that the initial appointment of the plaintiff in 1977 was purely on ad hoc basis and not in accordance with the prescribed recruitment rules. It was further pleaded that the plaintiff was appointed on regular basis only in the year 1980 after participating in a proper selection process pursuant to the advertisement. As per the applicable rules and instructions, the ad hoc service rendered by the plaintiff could not be counted towards seniority or promotion.

6. The trial Court, upon appreciation of the evidence on record, returned a finding that the plaintiff had indeed been appointed on ad hoc basis in 1977 and was subsequently appointed on regular basis in 1980 against a duly advertised post. The Court also noticed the relevant executive instructions, which categorically stipulated that ad hoc service could not be counted for the purposes of seniority. Holding that the plaintiff was not entitled to the relief claimed, the trial Court dismissed the suit.

7. Aggrieved against the said judgment, the plaintiff preferred an appeal, which came to be accepted by the learned First Appellate Court. The Appellate Court took the view that once the services of an employee are regularized, the benefit of earlier service should relate back to the date of initial appointment. Relying upon certain precedents, it held that the plaintiff was

entitled to have his seniority reckoned from 15.06.1977 and accordingly decreed the suit.

8. Assailing the said judgment, learned counsel for the appellant-board has argued that the First Appellate Court has proceeded on a fundamentally erroneous premise by treating the case as one of regularization. It is contended that the plaintiff was not regularized in service, but was appointed afresh in the year 1980 after undergoing a proper process of selection. It is submitted that the distinction between regularization and fresh appointment has been completely overlooked, resulting in a miscarriage of justice.

9. *Per contra*, learned counsel for the respondent-plaintiff has supported the impugned judgment, contending that the Appellate Court has correctly appreciated both the facts and the law applicable to the case.

10. I have heard learned counsel for the parties and have gone through the record with their assistance.

11. The core issue which arises for consideration is whether the ad hoc service rendered by the plaintiff from 15.06.1977 to 31.07.1980 can be counted towards seniority after his appointment on regular basis in the year 1980.

12. A careful scrutiny of the record leaves no manner of doubt that the initial engagement of the plaintiff in 1977 was purely on ad hoc basis and not in accordance with the statutory recruitment rules. It is equally undisputed that in the year 1980, the defendant-board issued a regular advertisement inviting applications for filling up the posts of Junior Draftsman and the plaintiff, in response thereto, applied and was selected for appointment on regular basis. Thus, the appointment of the plaintiff in 1980 cannot be termed as a case of regularization of his earlier ad hoc service; rather, it was a fresh appointment made after following the prescribed procedure.

13. This distinction assumes significance in view of the settled legal position governing the field. The Hon'ble Supreme Court has consistently held

that where an initial appointment is made on ad hoc basis, as a stop-gap arrangement and not in accordance with the recruitment rules, the service rendered in such capacity cannot be counted for the purpose of determining seniority. The rationale behind this principle is that an ad hoc appointment, being dehors the rules and made without affording equal opportunity to all eligible candidates, cannot be equated with a substantive appointment made through a regular selection process. To do so would amount to treating unequals as equals and would offend the mandate of Articles 14 and 16 of the Constitution.

14. The law has been authoritatively reiterated in subsequent judgments, including the decision of the Hon'ble Supreme Court in ***Malook Singh and others v. State of Punjab and others, Civil Appeal No. 6026-6028 of 1921 (arising out of SLP (C) No. 14039-1431 of 2011) decided on 28.09.2021***, wherein it has been clearly held that ad hoc service cannot be counted towards seniority and can, at best, be considered for limited purposes such as pensionary benefits. It has further been clarified that only where the initial appointment itself is made in accordance with the rules, or where the employee continues uninterruptedly after such appointment till regularization under a valid policy, can such service be considered for seniority. The present case does not fall in that category.

15. In the case at hand, the plaintiff's initial appointment was admittedly ad hoc and dehors the rules. His subsequent appointment in 1980 was made through a process of open selection. Therefore, the principle applicable is that the seniority of the plaintiff has to be reckoned from the date of his regular appointment and not from the date of his initial ad hoc engagement.

16. The First Appellate Court, in my considered view, fell in error in applying precedents relating to regularization without appreciating that the present case did not involve regularization at all. The reasoning adopted by the Appellate Court, therefore, cannot be sustained in law.

17. Consequently, it must be held that the trial Court had correctly appreciated both the factual and legal aspects of the matter and had rightly dismissed the suit filed by the plaintiff.

18. In view of the foregoing discussion, the present appeal deserves to be allowed. The judgment and decree dated 09.04.1996 passed by the learned First Appellate Court are set aside and those of the trial Court dated 28.10.1995 are restored. The suit filed by the plaintiff stands dismissed with costs.

19. Pending application(s), if any, also stand disposed of.

01.04.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes
Whether reportable	No

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