

(1992) 11 P&H CK 0008

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 4395 of 1990

Dharam Bir Singh and Others

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision: Nov. 12, 1992

Citation: (1993) 1 ILR (P&H) 312

Hon'ble Judges: S.S. Sodhi, Acting C.J.; R.K. Nehru, J; N.K. Sodhi, J

Bench: Full Bench

Advocate: Chander Singh, for the Appellant; R.C. Setia, Addl. A.G., for the Respondent

Final Decision: Dismissed

Judgement

S.S. Sodhi, A.C.J.

Does ad hoc or stop-gap appointment of teachers for a short period like 45 days or less render it incumbent upon the Government, if it decides to make fresh appointment otherwise than by promotion or through the Subordinate Services Selection Board to first, consider and take back such teachers in order of "Last Go First Come"? This is what was so held by the Division Bench in Jagdish Singh v. State of Haryana C.W.P. No. 3674 of 1990 decided on April 5, 1990. Reconsideration of this judgment is what has led to the present reference.

2. In Jagdish Singh's case (supra), the Petitioners were appointed in February, 1990 for a fixed terms ending on March 27, 1990. This appointment of the Petitioners was on a purely temporary basis as a stop-gap arrangement. Before their services came to an end, they approached this Court praying that they be allowed to continue in service till regular appointment is made to the posts held by them either by promotion or through the Subordinate Services Selection Board. Relying upon the judgment of this Court in Piara Singh v. State of Haryana 1988 (4) S.L.R. 739, it was held, "No right accrues to the Petitioners to continue in service except that in case the State Government wants to appoints fresh persons either through Employment Exchange or from outside, other than the recommendees from the Board or by way of promotion, which are the two sources for appointments to the posts in question,

it will have to take the Petitioners first." The writ petition was consequently dismissed "with a clear indication to the State Government that in case it wants to make any appointments, otherwise than by promotion or through the Board, the Petitioners will have to be called first in order of seniority-'last go first come'."

3. A similar factual position arises in the present case too. The Petitioners here were appointed as Sanskrit Teachers in February, 1990. It was a fixed term appointment, coming to an end on March 15, 1990. Relying upon the judicial precedent in Jagdish Singh's case (supra), they seek a direction to the Respondents to allow them continue in service till regular appointments are made through the Subordinate Services Selection Board.

4. In dealing with this matter, it must, at the very outset be noted that the judgment of this Court in Piara Singh's case (supra) has since been overruled by the Supreme Court in State of Haryana and Ors. v. Piara Singh and Ors 1992 (4) S.L.R. 770. This being so, the very foundation of the judgment is Jagdish Singh's case (supra) no longer survives.

5. On general principles too, there is no law, rule or instruction which lays down that once a person is appointed, even on a stop-gap or ad hoc arrangement, he acquires thereby a vested right, as it were, to be considered for appointment or given appointment thereafter, if and when any similar vacancy arises in the future. Such a proposition would be wholly untenable in law and is not one that can be countenanced.

6. It would also be pertinent to recall here the observations of the Full Bench in S.K. Verma and Others Vs. State of Punjab and Others, with regard to ad hoc employees, namely "To our mind, the term "ad hoc" employee is conveniently used for a wholly temporary employee engaged either for a particular purpose and one whose services can be terminated with the maximum of ease." It was consequently held, "In the gamut of service law an ad hoc employee virtually stands at the lowest rung. As against the permanent, quasi-permanent, and temporary employee, the ad hoc one appears at the lowest level implying that he had been engaged casually, or for a stop-gap arrangement for a short duration or fleeting purposes."

7. Such thus now being the settled position in law, we are constrained to hold that the judgment of this Court in Jagdish Singh's case (supra) does not lay down correct law and is consequently, hereby over-ruled. It follows, therefore, that the Petitioners are not entitled to the relief claimed.

8. This writ petition is consequently hereby dismissed. In the circumstances, however, there will be no order as to costs.