

(2013) 10 P&H CK 0331

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 17504 of 1995

Megh Raj

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision: Oct. 9, 2013

Citation: (2014) LabIC 344 : (2014) 2 SCT 394

Hon'ble Judges: Bharat Bhushan Parsoon, J

Bench: Single Bench

Advocate: Raman Sharma, for the Appellant; Rajiv Kwatra, D.A.G., Haryana, for the Respondent

Judgement

Bharat Bhushan Parsoon, J.

Having been selected by the Subordinate Services Selection Board, Haryana, the petitioner had joined as a Clerk on 30.9.1974 in Rehabilitation Department against a regular post, and on regular basis. Prior to his joining in the respondent-department, the petitioner had worked for different durations in different departments. He had made a number of representations to the respondents for counting of his ad-hoc service rendered earlier in different departments of the respondent-State for the purpose of grant of increments. Representations dated 11.3.1991 and 21.3.1995 (Annexure P-3 and P-4 respectively) of the petitioner, were rejected vide order dated 23.5.1995 (Annexure P-5). Despite issuance of legal notice dated 20.7.1995 (Annexure P-6), the respondents did not move which resulted in filing of this writ petition by the petitioner. The petitioner seeks quashing of order dated 23.5.1995 (Annexure P-5) and directions to the respondents to count his service rendered on ad-hoc basis. The respondents have contested the claim of the petitioner tooth and nail. Though, it was admitted that the petitioner had worked in different departments on ad-hoc basis earlier to joining of the Rehabilitation Department, but it was explained that since his earlier service was on ad-hoc basis, the said service rendered by the petitioner being neither continuous nor immediately succeeded by regular service with the respondents,

was not countable for purposes of grant of increments. Dismissal of the petition was sought.

2. Learned counsel for the parties have been heard while going through the paper book.

3. Contention of learned counsel for the petitioner is that service rendered by the petitioner on ad-hoc basis is to be counted for the purpose of granting annual grade increments and the same cannot be ignored by the respondents. Per contra, plea of the respondents is that neither ad-hoc service of the petitioner had been rendered with them nor there was any continuity to regular service.

4. Though there is no dispute about the facts, it would be appropriate to take stock of the same.

5. Before joining the respondent-department on regular post of a clerk on 30.9.1974, the petitioner had been serving on ad-hoc basis in different departments of the State for different periods of time, details of which, are as under:

6. In all these three instances, recruitment of the petitioner on adhoc basis had been through permissible means as is evident from appointment letters Annexures P-7, P-8 and P-9.

7. It would further be noticed that the petitioner had been making efforts by moving representations Annexures P-3 and P-4 and legal notice Annexure P-6 for counting of his ad-hoc service for the purpose of grant of annual increments. Without disclosing any reason in the impugned order (Annexure P-5), the respondents had refused to give him benefit of ad-hoc service and as such the said order instead of being self-speaking is autocratic. Relevant portion of the impugned order (Annexure P-5) is as under:

Subject:- Regarding grant of benefit of ad-hoc service.

With reference to your representation dated 21.3.95 on the subject noticed above.

2. You are informed that Government is unable to accede to your request.

Sd/

Joint Secretary, Haryana Government,
Rehabilitation Department.

8. Pointed reference may be made to Rule 4.9 of Punjab Civil Services Rules (Volume 1) (Part I) as is given on the next page:

4.9. The following provisions prescribe the conditions on which service counts for increments in a time scale:-

(a) All duty in a post on a time scale counts for increment in that time scale:

Provided that, for the purpose of arriving at the date of next increment in that time scale the total of all such period as do not count for increments in that time scale shall be added to the normal date of increment.

9. In compliance with this Rule, there are instructions of the Government of Haryana which have been appended by the petitioner vide Annexure P-1. These instructions are of 30.6.1964. There is reiteration of these instructions in communication dated 11.6.1974 (Annexure P-2).

10. There is no dispute that if period of ad-hoc service had gone beyond six months, Subordinate Selection Board was taken into confidence by employers of the petitioner. Communication in this respect was made though with delay but it was not favourably considered by the said Board. Merely because Subordinate Selection Board had not given approval of ad-hoc service rendered by the petitioner beyond six months as detailed at serial No. 3 in para 6 earlier, the petitioner cannot be blamed for this and that too to his prejudice because he is not at fault.

11. During the course of arguments, taking support of averments in replication furnished to written statement of respondent No. 1, counsel for the petitioner has cited two instances viz. of Satyavir Singh and of Smt. Prabha Arora who had joined Rehabilitation Department of the State of Haryana and their services earlier rendered on ad-hoc basis, though in driplets and rendered in different departments, had been counted for the purpose of increments and for pay fixation. For ready reference, such averments culled out from the replication of the petitioner are being given on the next page:

12. Learned counsel for the respondents has neither been able to rebut veracity of these particular instances nor has been able to cite any legal support for avoiding benefit of these instances to the petitioner.

13. Even for purpose of pension etc., ad-hoc service rendered by a regular employee preceding his regular appointment, is to be counted is a proposition of no dispute. At this stage, it would be appropriate to refer to a Division Bench judgment of this court in Hanumant Singh and others Versus State of Haryana and others 2008 (4) RSJ 756 and a recent decision rendered by another Division Bench of this Court in CWP No. 11212 of 1995 decided on 3.7.2013 in case Suresh Kumar Gupta and others Vs. State of Haryana and others wherein dispute of counting of ad-hoc service rendered by various petitioners prior to their regularization has been settled and credit for pay fixation etc. have been given. To the same effect are [Shanno Devi Vs. State of Haryana and others](#), and [Hardip Singh and Another Vs. State of Punjab and Others](#), and a recent decision of this Court in CWP No. 2554 of 1995 decided on 16.8.2013 titled Neelam Rani and others Vs. State of Haryana and others.

14. In view of the above facts and circumstances and the law cited on the subject, service rendered on adhoc basis by the petitioner prior to joining the respondent-department is to be counted for grant of benefit of increments and

ultimately of pension etc. There is no valid and cogent reason for denial of the same by the respondents.

15. Consequently, quashing impugned order (Annexure P-5) being non-speaking and unsupported by any reason or logic, the respondents are directed to fix annual increments of the petitioner giving benefit of service rendered by him on ad-hoc basis and grant the monetary benefits to the petitioner along with interest @ 9% per annum within two months. If the payment is not made within two months, interest would be charged @ 12% per annum. The petition is allowed in the above terms.