

**Cwp No.18119 of 1994 Vs. State of Punjab and Others This Court Had Held**

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**Court :** Punjab and Haryana

**Decided On :** Mar-11-2013

**Appellant :** Cwp No.18119 of 1994

**Respondent :** State of Punjab and Others This Court Had Held

**Judgement :**

CWP No.18119 of 1994 -1- \*\*\* IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH CWP No.18119 of 1994 Date of decision:11.03.2013 Ranbir Singh and others .....Petitioners Versus State of Punjab and another .....Respondents CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA Present: None for the petitioners. Mr. Aman Bahri, Addl. Advocate General, Punjab for the respondents G.S.Sandhawaliala J.(oral).

1. The petitioners are seeking issuance of writ in the nature of certiorari/mandamus directing respondent no.2 to grant to them the benefit of total length of service while fixing their pay for grant of senior scale in the ratio of 20:40:40 and for grant of proficiency step-up increments on completion of 8 and 18 years of total service. Relief for quashing the circular letter dated 1.9.1989 issued by respondent no.1 wherein clarifications have been issued by the Government that only service rendered by the employees on regular basis is to be counted for the purpose of grant of proficiency step-up increments, is also prayed for.

2. The pleaded case of the petitioners is that petitioners no.1 to 5 had joined the Board as Clerks in the year 1985 whereas petitioner no.6 had joined as Steno-

typist in the year 1985 on daily wages basis. The petitioners were appointed against regular vacancies of Clerks/Stenot typists and were possessing requisite qualifications for appointments. They were issued appointments by the Chairman of the Board, who was the competent appointing authority for the posts. They were initially paid wages at the rate fixed by the Deputy Commissioner, thereafter, in the CWP No.18119 of 1994 -2- \*\*\* year 1987, the Board issued orders appointing the petitioners on adhoc basis in the pay scale of ` 400-600/-. In the year 1989 the services of the petitioners were regularised on completion of two years service. The instructions issued by the Punjab Government relating to service conditions of the employees were applicable to the employees of the Board as per letter dated 22.3.1973. The service of the petitioners was uninterrupted and without any break from the time they were appointed on daily wages basis in the year 1985. On the recommendations of the 3rd pay commission, revised pay scales were granted to the employees with effect from 1.1.1986 and the Board adopted the pay revision of the Punjab Government. The pay scale of the clerks was thus revised from ` 400-600 and ` 510-800 in the ratio of 50:

50. to ` 950-1800 and ` 1200-2100 in the ratio of 50:

50. on the pattern of the State Government. In order to remove anomalies in the pay scales of various employees, letter dated 20.2.1991 was issued and the three tier pay scales were to be granted to the Clerks/Steno-typists in the ratio of 20:40:40. As per said letter dated 20.2.1991, the Clerks/Steno-typists were entitled to fix their pay in the pay scale of ` 1200-2100 and ` 1500-2640/- on completion of 5 and 10 years of service in the cadre. The Government decided to grant one additional increment on completion of 8 and 18 years of service in a cadre after 1.1.1986 vide circular letter dated 1.12.1988 by way of proficiency step-up increment. Thereafter, circular dated 1.9.1989 was issued vide which certain clarifications were given regarding grant of proficiency step-up increment and in para 6, it was categorically mentioned that 8/18 years of service was to be reckoned from the date of regular post in a cadre. It was mentioned that the service rendered on adhoc basis was not be counted for the purpose of grant of proficiency step-up increments. Accordingly, the CWP No.18119 of 1994 -3- \*\*\* writ petition has been filed that the benefit of adhoc service should be taken into

consideration for grant of proficiency step-up increments.

3. The State in its reply admitted the issuance of circular dated 1.12.1988. It was further clarified that in Civil Writ Petition No.13402 of 1991-M.M.Aggarwal Vs. State of Punjab and others, this Court had held that the instructions dated 1.9.1989 could not be applied retrospectively and any Government employee, who fulfilled the conditions as laid down in circular dated 1.12.1988 were entitled for the grant of benefit of proficiency step-up increments. Accordingly, circular dated 20.9.1994 was issued.

4. Respondent no.2 in its written statement, apart from taking the plea of delay in challenging the instructions of 1989 in the year 1994 also pleaded that there was an alternative remedy under the Punjab Agricultural Produce Markets Act, 1961. It was specifically mentioned that initial appointments on daily wages basis were at the rate fixed by the Deputy Commissioner and were on stop gap basis. The petitioners had participated in the open selection held in the year 1986 and were interviewed but were not successful. This fact had been suppressed by the petitioners. Thereafter, petitioners no.1 to 5 had been appointed on adhoc basis as Clerks in the year 1987 on different dates in the pay scale of ` 400-600/- and petitioner no.6 was appointed as Steno-typists and in accordance with regularisation policy, services of the petitioners had been regularised in the year 1989. It was incorrect that they were appointed after proper interview rather the petitioners participated in the open selection held in the year 1986 and they were unsuccessful in the selection. The benefits of pay revision were available to only regular employees and not to adhoc employees as per instructions of the Government. The benefit of proficiency step-up increments was only CWP No.18119 of 1994 -4- \*\*\* available on completion of 8 and 18 years of regular service in a cadre and not service on daily wages basis. The petitioners did not possess the requisite period of regular service to their credit as as per circular dated 1.9.1989 (Annexure P-7) and only period of regular service is to be counted and not daily wages/adhoc service.

5. The issue has not been settled by Hon'ble Apex Court in Punjab State Electricity Board and others Vs. Jagjiwan Ram and others 2009(3) SCC 661.The Hon'ble

Apex Court, after relying upon State of Haryana Vs. Haryana Veterinary & AHTS Association 2000 (8) SCC 4 and State of Punjab Vs. Gurdeep Kumar Uppal 2003 (11) SCC 73.held that work charged employees and employees appointed on adhoc basis cannot claim parity with the regular employees in the matter of grant of higher pay scale and promotion etc. since they constituted a distinct class and they cannot be equated with any other category or class of the employees much less regular employees. It was held that adhoc period cannot be used for the purpose of grant of revised pay scales, senior/selection grade, proficiency step-up and for fixation of seniority. In the present case, admittedly the petitioners were initially appointed on daily wages basis and thereafter on adhoc basis and subsequently their services were regularised on the strength of the regularisation policy of the Board. The Board has specifically pleaded that the petitioners were unsuccessful in the open selection. The relevant paragraph reads as under:

12. In State of Punjab and others v. Ishar Singh and others [(2002) 10 SCC 674]. and State of Punjab and others v. Gurdeep Kumar Uppal and others [(2003) 11 SCC 732]., the two-Judge Benches referred to the judgment in State of Haryana v. Haryana Veterinary & AHTS Association (supra) and held that adhoc CWP No.18119 of 1994 -5- \*\*\* service rendered by the respondents cannot be clubbed with their regular service for the purpose of grant of revised pay scales, senior/selection grade, proficiency step-up and for fixation of seniority.

6. In view of the above, no relief can be granted to the petitioners. Accordingly, this writ petition is dismissed. 11.03.2013 (G.S.Sandhawalia) Pka JUDGE

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