
(1967) 12 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2206 of 1966

Balbir Singh

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 06-12-1967

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1967) 12 P&H CK 0001

Hon'ble Judges : D.K. Mahajan, J

Bench : Single Bench

Advocate : M.R. Agnihotri, for the Appellant; K.K. Mehta, for the Respondent

Judgement

D.K. Mahajan, J.—On the main facts, there is not much dispute in this petition under Articles 226 and 227 of the Constitution of India. The petitioner was an employee in one of the eight Covenanted States, which merged into the Union of States known as PEPSU. This merger took place with effect from the 1st of September, 1948. By a notification of the Home Department, which is reproduced below :

Government of PEPSU (Home Department).

Kindly refer to your endorsement No H/310/07/77 dated the 3rd January, 1961, regarding position of temporary and officiating Government servants of the Covenanted States who were working against permanent posts and have been integrated in Union Service.

I am directed to inform you that integration means absorption in permanent service of the Union and as such no specific orders for the confirmation are required.

Sd/- . Deputy Secretary to Government. Education and Health Department. No. H.D. 15(2)A/51 dated the 15th January, 1951.

All officiating temporary Government servants of the Covenanted States, who

were working against permanent posts, were integrated in the Union Service and were made permanent with effect from the 1st of September, 1948. This also clear from the order of the Rajpramukh, Annexure P.*, which is reproduced below :

Government of Patiala and East Punjab States Union. Revenue Department. No. H.D. 10(21)CI/531 II dated 22nd January, 1955.

His Highness the Rajpramukh is pleased to approve of the proposals of the Integration Committee constituted vide Home Department No. HD. 2(70)Cab/53 dated 6th July, 1955. regarding the structure and the grade of the non-gazetted staff of the Cooperative Department, as per Annexure "A".

His Highness has further been pleased to decide finally the matter of integration and seniority of the non-gazetted staff of the Co-operative Department, as shown in Annexure "B" after consideration of the appeals preferred by the appellants in respect of their integration and seniority decided provisionally by the Integration Committee.

The integration and seniority shown in Annexure "B" shall be deemed to have taken effect from 1st September, 1948.

Sd/- Secretary to Government.

* * * *

2. The effect of this integration was that the previous service of the petitioner in the Covenanting State was ignored. The order of the Rajpramukh is dated the 21st of January, 1955. The respondent, Hari Singh, was recruited for the first time on the 25th of October, 1948 in the State of Punjab on the 1st of November, 1956 PEPSU and Punjab State were merged and the first provisional Integration list was prepared which is Annexure P. 2. This list was issued on the 15th of April, 1957; and the petitioner is shown as senior to Hari Singh, Thereafter, another provisional Joint Seniority List was issued in the year 1958, which is Annexure P. 3. In that list, the petitioner is shown as junior to Hari Singh. The date of service of the petitioner was changed from the 1st of September, 1948 to 22nd of December, 1948; otherwise there is no reason to show the petitioner junior to Hari Singh, respondent. The petitioner's appeals against this displacement of his seniority met with no success and ultimately he made a large number of representations which have gone unheeded. All these representations are mentioned in Annexure P 5. In the Final Gradation List, Annexure P 4, the position, as was in Annexure P. 3, has been maintained. It is in this situation that the present petition has been filed by the petitioner.

3. The stand taken up by the State is that the Department, to which the petitioner was allotted, came into being in December, 1943; and, therefore, the appointment of the petitioner should be taken to be in December, 1948. How this conclusion follows, I am unable to grasp. The petitioner was an employee of one of the Covenanting States. On the integration of those States, he was made a

permanent employee of the PEPSU Union; and his date of confirmation was fixed as 1st of September, 1948. This date of confirmation could not be subsequently altered for the purposes of integration between PEPSU and Punjab. This date has to be kept in view in fixing the seniority of the petitioner. Therefore, there is clear error on the basis of which the seniority of the petitioner has been displaced; and I see no escape from this conclusion. When the petitioner's representations were rejected, he was afforded no opportunity of a hearing. That such an opportunity is required to be given, is clear from the decision of the Supreme Court in *Union of India v. P.K. Roy* C.A. 618 of 1966, decided on the 9th of November, 1967; and that of this Court in *Madan Lal v. Union of India* 1967 C.L.J. (Pb. & Hy.) 62.

4. Mr. Mehta, who appears for the respondents 2, 3 and 4 has raised the contention that the petition is belated. Even if it is so, in view of the fact, that there is merit in the petition, I cannot dismiss it on ground of laches in view of the Full Bench decision of this Court in *Rajinder Parshad and another v. The Punjab State* AIR 1963 P&H. 185. No other contention has been urged which requires determination.

5. For the reasons recorded above, this petition is allowed and the respondents are directed to consider the petitioner as a permanent employee with effect from the 1st of September, 1948, for the purposes of seniority; and giving him the benefit of the directive of the President of India regarding the Final Gradation List. There will be no order as to costs.