
(2013) 05 P&H CK 0230
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 454 of 1996

Dewan Chand and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 15-05-2013

Acts Referred:

Citation : (2014) LabIC 1190

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ritu Bahri, J.—The petitioners are Class IV employees who were promoted against 10% vacancies of Clerk a Class III service. They are seeking direction to regularize their services with effect from the dates of their appointments on ad hoc basis in the Class III. The dates of the appointments of the petitioners as Class IV employees in the Punjab Education Department are as under:

The dates of promotion of the petitioners as Clerks on ad hoc basis and the dates on which their services were regularized as Clerks are as under:

2. The petitioners were appointed as Class IV employees and were possessing the other qualification did not have independent source of Class III posts. The State Government decided to reserve 10% vacancies occurring in a particular year in Class III services to be reserved for Class IV employees as per instructions dated 25.04.1972 (P-1). Subsequently, vide instructions dated 12.02.1981 (P-2), clarification was issued that on promotion by the State Government will have no effect on Class IV employees to be promoted against 10% quota. For the Class III employees, they can be considered for regular appointment by the Department. The petitioners have referred to a case of Achhar Singh and Pritam Dass, who had been granted regular promotion with effect from the date of their ad hoc appointments on the post of Class in employees.

3. On notice, reply has been filed by the Department clarifying that the promotion of Achhar Singh and Pritam Dass was made after issuance of instructions dated 12.02.1981 (P-2) whereby the ban imposed on promotion could not effect the promotion of Class IV employees against 10% quota of Clerks. The petitioners were appointed on ad hoc basis as clerk much prior to the issuance of instructions as per details stated above. An affidavit dated 09.09.1997 has been filed by the Administrative Officer in which it has been clarified that the services of Pritam Dass were not regularized from the date of promotion i.e. 02.11.1973 as Clerk. His services were regularized w.e.f. 01.04.1977 vide office order dated 28.10.1993.

4. An affidavit filed by Petitioner No. 1, a reference has been given to the date of appointment of Class IV employees and their appointments. It has been stated that the some persons who were appointed as Class IV employee in the department had approached this Court by filing a CWP No. 102 of 1980 seeking their regularization as Clerks from the date of appointments on ad hoc basis. The details of their appointments as Class IV and appointments on ad hoc basis are as under:

5. In response to this affidavit, a reply has been filed by the Administrative Officer in which it has been clarified that vide P-4 all these persons as state above were appointed as Class IV employee and subsequently promoted on ad hoc basis but they have not been given regularization as Clerks with effect from the date of their ad hoc promotion as per details given below:

6. This factual aspect has not been disputed by learned counsel for the petitioner, therefore, keeping in view the fact that the department has not regularized even a single Class IV employees from the date of their ad hoc promotion, prayer of the petitioners is liable to be rejected.

7. As per instructions dated 25.04.1972, the Government had decided to introduce 10% posts from the pool of Clerks occurring in a particular year for promotion to Class IV employees. As per circular, there was certain conditions to be filled by Class IV employee for being appointed as Clerk in 10% reserved posts such as three years" service experience. The ad hoc promotion or temporary promotion were made in anticipation on regular selection by S.S. Board against the Class III regular posts. However, the Government was to appoint on regular basis Class IV employees as Clerk after they fulfilling certain conditions, which was to be examined by the Departmental Selection Committee. Therefore, the date of ad hoc promotion does not give right to the petitioners to seek their regularization. The Department has followed the instructions dated 25.04.1972 and has considered the case of all Peons and then regularized their ad hoc promotion as Clerks. No one has been discriminated by giving benefit of regularization from the date of ad hoc promotion. Consequently, the writ petition is dismissed.