
(2014) 11 P&H CK 0083

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. Nos. 18673 of 2012, 28272, 605 and 8023 of 2013 (O&M)

Kewal Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 03-11-2014

Acts Referred:

Citation : (2015) 178 PLR 179 : (2015) 1 SCT 132

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Saurabh Arora, Advocates for the Appellant; Harkesh Manuja, Addl. A.G, Advocates for the Respondent

Judgement

Mahesh Grover, J.—This order will dispose of four writ petitions bearing CWP Nos. 18673 of 2012, 28272 of 2013, 605 of 2013 and 8023 of 2013. The petitioners pray for counting of their service rendered by them on ad hoc basis prior to their appointment as SS Masters on regular basis vide orders of different dates which have been reflected in the tabulated form in the subsequent following paragraph:-

2. Initially an advertisement was issued on 19.8.1992 whereby selection to the said posts were made. The petitioners were appointed after selection but eventually it turned out that the respondents had advertised only 2461 posts but made appointments on 7737 posts which had led to a challenge by way of a CWP No. 5985 of 1994 which was accepted and the appointments in excess of the advertised posts were quashed. Services of petitioners were then terminated but later on vide orders of different dates again in the year 1994 they were offered appointments on ad hoc basis for 89 days. The dates of appointments on ad hoc basis of all the petitioners are as follows:-

3. Finally the petitioners were regularized as per the dates given in the first table.

4. The grievance of the petitioners now is that the service rendered by them on ad hoc basis w.e.f. the date of appointment be considered for the purposes of grant of seniority and other service benefits such as proficiency step up etc. etc.

The stated case of the petitioners is that this period cannot be ignored for the benefit as initially they had faced a proper selection process but their services were terminated due to appointment made in excess of the advertised posts due to the fault of the respondents but not due to any fault on their part. Besides petitioners were given ad hoc appointments in terms of accepted norms of service and therefore this period cannot be ignored for the purposes of grant of the service benefits.

5. The respondents on the other hand contend that since the initial appointments of the petitioners were illegal, they had no option but to terminate their services and thus the petitioners would at best be entitled to the benefits w.e.f. when they were regularly appointed finally but not w.e.f. 1994.

6. On due consideration I am of the view that the petitioners' cause has been severely prejudiced. They have faced selection process and it was not their fault that the respondents committing an illegality by recruiting more persons than the advertised for which the petitioners cannot be made to pay.

7. In any eventuality the appointments since 1994/1995 were on ad hoc basis. The benefit of this service cannot be denied to the petitioner as it would result in the petitioners being prejudiced time and again on account of the fault of the respondents only, and particularly when the appointments in 1994/95 were in accordance with accepted mode of public employment.

8. It is a settled principal of law that a person who gains employment in terms of accepted modes of public appointment cannot be deprived of the benefits of service rendered by him on ad hoc basis for the purposes of seniority and other related service benefits.

9. Indisputably the petitioners had been in service since 1994/1995 followed by regular appointment. The offer of appointment in the year 1994/1995 was preceded by an advertisement soliciting the services of desirous candidates. Thus it cannot be construed to be a back door entry in the employment. The case of the petitioners would be thus squarely covered by the ratio of various judgments of the Hon'ble Supreme Court which have held that a person getting employment by following a valid procedure cannot be denied the benefits of such service rendered by him on ad hoc basis for the purposes of service benefits such as seniority etc. Petitions are, therefore, accepted and the petitioners are held entitled to the benefit of period of service benefits rendered w.e.f. date of their first appointment in the year 1994 which was followed by regularization in the year 1997. All the petitioners shall be held entitled to similar benefits for the purposes of reckoning seniority and other related benefits in terms of ACP etc.

Let a decision in this regard be taken as expeditiously as possible.