

Yash Pal Bansal

Vs

State of Punjab and Another

Civil Appeal No. 1150 of 1998

(S. C. Agarwal, M. Srinivasan, A. P. Mishra JJ)

27.02.1998

ORDER

1. We have heard the learned counsel on the application for impleadment whereby it is requested that four persons, namely, Malwinder Singh, Jatinder Singh, Darshan Singh and D. S. Bath be impleaded as parties. Malwinder Singh and Jatinder Singh have already been impleaded as Respondents 3 and 4. The remaining two persons, namely, Darshan Singh and D. S. Bath are only pro forma respondents. We do not consider it necessary that they should be impleaded as respondents. IA No. 5 is, therefore, dismissed.
2. Special leave granted.
3. This appeal relates to matter of seniority of the appellant in the cadre of Punjab Service Engineers Class II (Irrigation Branch). The case of the appellant is that he had been appointed as Graduate Engineer on ad hoc basis in a Centrally Sponsored Scheme sometime in 1973 and he was appointed as Temporary Engineer in the Punjab Service of Engineers, Class II (Irrigation Branch) with effect from 1-6-1976. By order dated 28-7-1974 the seniority of Engineers in the Punjab Service of Engineers Class II (Irrigation Branch) including that of the appellant herein had been fixed but the said order was withdrawn by order dated 9-1-1995, in view of the fact that certain writ petitions were pending in the High Court of Punjab & Haryana. Feeling aggrieved by the said order dated 9-1-1995, the appellant filed a writ petition in the High Court of Punjab & Haryana which was dismissed by the High Court by impugned judgment dated 9-2-1996. The High Court has observed that the appellant was not borne in the cadre of Punjab Government and as such he cannot get any benefit of the services rendered by him under the Centrally Sponsored Scheme in which his appointment was on ad hoc basis.
4. On behalf of the appellant, Shri P. P. Rao, the learned Senior Counsel as well as Shri Raju Ramachandran, the learned Senior Counsel, have submitted that the High Court in the impugned judgment has failed to appreciate the grievance of the appellant. The submission is that the grievance of the appellant is that after his appointment on the post of Temporary Engineer with effect from 1-6-1976, the appellant is borne in the cadre of Punjab Service of Engineers Class II (Irrigation Branch) and he is entitled to have his seniority counted on the basis of such appointment with effect from 1-6-1976. It is stated that the appellant is not claiming the benefit of his earlier service as ad hoc Engineer in the Centrally Sponsored Scheme prior to his appointment on 1-6-1976 for the purpose of seniority in the Punjab Service of Engineers Class II (Irrigation Branch) and that the said period is to be counted only for the purpose of fixation of his pay after his appointment in the Punjab Service of Engineers Class II (Irrigation Branch) with effect from 1-6-1976. Since the matter has not been considered by the High Court in the light of this grievance, we consider it

appropriate that the matter is remitted to the High Court for considering it in the light of the said grievance of the appellant. We have been informed that the question of seniority of persons who were appointed on temporary basis in the Punjab Service of Engineers Class II (Irrigation Branch) is involved in some matters which are pending consideration before the High Court.

5. In the circumstances, the appeal is allowed, the impugned judgment of the High Court is set aside and the matter is remitted to the High Court for consideration in the light of the grievance of the appellant as indicated above. No order as to costs.