

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/1533/2017
M.A. No.60/37/2018

Date of decision: 15.7.2019

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MR. A.K. BISHNOI, MEMBER (A).

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1. Rajesh Kumar, age 50 years, son of Shri Achhe Lal, Mali, office of the Executive Engineer, Horticulture Division No.2, Chandigarh Administration, Chandigarh, resident of 1343-B, Dhanas Complex, U.T. Chandigarh. (Group D).
2. Raj Narain, age 56 years, son of Shri Tulsi Ram, Mali, office of the Executive Engineer, Horticulture Division No.2, Chandigarh Administration, Chandigarh, resident of 3864, Sector-56, Chandigarh. (Group D).
3. Ram Jas, age 51 years, son of Shri Ram Adhar, Mali, office of the Executive Engineer, Horticulture Division No.2, Chandigarh Administration, Chandigarh, resident of 1002-B, Dhanas Complex, U.T. Chandigarh. (Group D).
4. Gaya Prashad, age 52 years, son of Shri Ram Samuj, Mali, office of the Executive Engineer, Horticulture Division No.2, Chandigarh Administration, Chandigarh, resident of H. No.176, Vikas Nagar, Mauli Jagran, U.T. Chandigarh. (Group D).

... APPLICANTS

VERSUS

1. The Chandigarh Administration, Union Territory Chandigarh through the Secretary, Engineering & Chief Engineer, Chandigarh Administration, Sector-9, Chandigarh.
2. The Executive Engineer (Horticulture), Division No.2, Chandigarh Administration, U.T. Chandigarh.

... RESPONDENTS

PRESENT: Sh. Gaurav Sharma vice Ms. Kusum Chopra, counsel for the applicants.
Sh. Rajesh Punj, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Applicants are aggrieved against order dated 17.10.2017 (A/1), whereby their claim for regularization from an earlier date i.e. date of their entry into service has been declined and have further sought regularization of their service from 31.8.1999.
2. After exchange of pleadings, matter came for hearing today.
3. Facts are not in dispute.
4. Learned counsel for the applicants submitted that respondents have regularized services of the applicants from 2014 onwards and not from the date of their entry into service and prayed that their cases be considered under Old Pension Scheme, after regularization.
5. Respondents have resisted the claim of the applicants by filing a detailed written statement, wherein they have been submitted that orders of this Court and High Court were challenged before the Hon'ble Supreme Court in a number of cases in Civil Appeal No.6779 of 2009 leading case that of **U.T. Chandigarh & Ors. vs. Sampat Singh & Ors.**, which came to be disposed of vide judgment dated 3.4.2014 and case of the applicants was also disposed of therein. In pursuance to direction of the Hon'ble Supreme Court, respondents considered claim of the applicants for regularization and their services have been regularized from 2014, the date when vacancies became available. Therefore, claim of the applicants for retrospective regularization from their entry into service cannot be accepted as no vacancies were available at that time. Learned counsel for the respondents submitted that cases of the applicants will be considered under Old Pension Scheme and averment to this effect has been made

in reply to legal notice. Therefore, he prayed that the O.A. be dismissed.

6. We have heard learned counsel for the parties and have perused pleadings available on record.
7. We are in agreement with the submissions made at the hands of the respondents that this petition deserves to be dismissed in view of the fact that while disposing of SLPs, a finding was recorded by the Lordships that if vacancies are not available, then services of applicants be regularized from the dates, as and when vacancies become available, which was done from 2014. Thus, their plea for retrospective regularization cannot be accepted. Also, once respondents themselves have granted benefit under Old Pension Scheme to applicants, their second grievance also stands addressed.
8. The O.A. along with M.A. is accordingly disposed of.

(A.K. BISHNOI)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 15.07.2019
Place: Chandigarh.

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