

RSA-4186-2005(O&M)

-1- 2026:PHHC:016876



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-4186-2005(O&M)

RESERVED ON : 15.01.2026

PRONOUNCED ON : 09.02.2026

UPLOADED ON : 09.02.2026

Haryana State Cooperative Land Development Bank Ltd., Chandigarh.

....Appellant

Versus

Jaswant Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. S.S. Dalal, Advocate for appellant/defendant.

Mr. Parminder Singh, Advocate for the
respondents/plaintiffs.

DEEPINDER SINGH NALWA, J.

1. The present Regular Second Appeal has been filed by the appellant/defendant against the judgment and decree dated 27.07.2005 passed by learned Additional District Judge, Karnal (hereinafter to be referred as 'Lower Appellate Court') whereby the appeal filed against the judgment and decree dated 14.02.2005 passed by the learned Civil Judge (Junior Division), Karnal (hereinafter to be referred as 'trial Court') was dismissed as well as against the judgment and decree dated 14.02.2005 passed by the trial Court, whereby the suit filed by the respondents/plaintiffs was decreed and the respondents/plaintiffs were held entitled to the benefit of adhoc/work-charged service for the purpose of seniority and pay fixation etc.



2. The brief facts of the case are that respondent/plaintiff No.1 Jaswant Singh was appointed on the post of Clerk on adhoc basis in Haryana State Cooperative Land Development Bank Ltd. (hereinafter to be referred as 'the Bank') on 26.08.1974 and respondent/plaintiff No.2 Jaljeet Singh was appointed on the post of Clerk on adhoc basis on 02.02.1975. The services of respondents/plaintiffs were terminated vide order dated 20.07.1977 passed by the appellant/defendant-Bank and were relieved from their duties on 22.07.1977. Employees' union of the appellant/defendant-Bank raised various demands. One of the demand was in regard to termination of services of respondents/plaintiffs and other similarly situated employees. However, no settlement was arrived at between the parties, as a consequence of this, the matter was referred to the Industrial Tribunal, U.T. Chandigarh (hereinafter to be referred as 'the Tribunal'). The Tribunal vide award dated 12.02.1990 (Ex.D1) held the termination of respondents/plaintiffs was illegal and they were held entitled to be reinstated in service along with full back-wages. In pursuance to the award dated 12.02.1990 passed by the Tribunal, the respondents/plaintiffs were reinstated in service. After reinstatement, the respondents/plaintiffs submitted representation to the appellant/defendant-Bank for counting of adhoc service rendered by them, before their services were terminated for the purpose of seniority, pay fixation and promotion etc. The abovesaid representation submitted by the respondents/plaintiffs was rejected by the appellant/defendant-Bank. Aggrieved against the action of the appellant/defendant-Bank in rejecting the claim of respondents/plaintiffs in regard to counting of their adhoc



service for the purpose of seniority, pay fixation and promotion etc., the respondents/plaintiffs filed a suit for declaration that the adhoc service rendered by them before being brought on regular establishment should be taken into consideration for the purpose of seniority, pay fixation and promotion etc. It was the case of the respondents/plaintiffs that once vide award dated 12.02.1990 passed by the Tribunal, the respondents/plaintiffs were held entitled to be reinstated with full back-wages, an inference has to be drawn that they were in service during the period when they were out of service. As such, the said period should be taken into consideration for the purpose of seniority, pay fixation and promotion etc.

3. The appellant/defendant-Bank duly filed written statement in the abovesaid suit. It was the case of the appellant/defendant-Bank that the services rendered by the respondents/plaintiffs before being brought on regular establishment cannot be taken into consideration for the purpose of seniority, pay fixation and promotion etc. for the reason that the appointment of the respondents/plaintiffs was illegal as they were appointed by the Manager. As per the relevant rules, the post of Clerk was on the common cadre and appointing authority for the post of Clerk was Managing Director. It was also the case of the appellant/defendant-Bank that as per the award dated 12.02.1990 passed by the Tribunal, as the respondents/plaintiffs were not held entitled for continuity of service, as such, the service rendered before they were brought on regular establishment cannot be taken into consideration for the purpose of seniority, pay fixation and promotion etc. It was also the case of appellant/defendant-Bank that as per settled law, appointment on



adhoc/work-charged/daily wage service, though by backdoor entry does not give right to the respondents/plaintiffs for the benefit of seniority, pay fixation and promotion etc.

4. From the pleading of the parties, following issues were framed by the trial Court :-

1. Whether plaintiffs are entitled decree for declaration as prayed for? OPP
2. Whether suit is not maintainable? OPD
3. Relief.

5. The trial Court vide judgment and decree dated 14.02.2005, decreed the suit in favour of the respondents/plaintiffs. A perusal of the judgment and decree dated 14.02.2005 passed by the trial Court would show that the Court has held that once the respondents/plaintiffs were held entitled to be reinstated in service with full back-wages, as such, adhoc service rendered by the respondents/plaintiffs before they were brought on regular establishment has to be taken into consideration for the purpose of seniority, pay fixation and promotion etc. It has also been held by the trial Court that as there are no rules which bars that adhoc period cannot be taken into consideration for the purpose of seniority etc., it was held that the services rendered by the respondents/plaintiffs on adhoc basis has to be taken into consideration for the purpose of seniority, pay fixation and promotion etc.

6. Aggrieved against the judgment and decree dated 14.02.2005 passed by the trial Court, the appellant/defendant-Bank preferred an appeal before the Lower Appellate Court. The Lower Appellate Court



vide judgment and decree dated 27.07.2005 dismissed the appeal filed by the appellant/defendant-Bank. A perusal of the judgment and decree dated 27.07.2005 passed by the Lower Appellate Court would show that the Lower Appellate Court has held that as the order of termination passed in the case of respondents/plaintiffs was held to be illegal and the respondents/plaintiffs were reinstated in service along with full back-wages, as such, the respondents/plaintiffs were held entitled for benefit of adhoc/work-charged service towards seniority, pay fixation and promotion etc.

7. Aggrieved against the judgment and decree dated 27.07.2005 passed by the Lower Appellate Court and judgment and decree dated 14.02.2005 passed by the trial Court, the appellant/defendant-Bank has filed the present Regular Second Appeal.

8. Learned counsel for the appellant/defendant-Bank submits that the appointment of the respondents/plaintiffs was not made by the competent authority as per the relevant rules. As such, the initial appointment of the respondents/plaintiffs was illegal and, as such, adhoc service rendered by them cannot be taken into consideration for the purpose of seniority, pay fixation and promotion etc. He further submits that a perusal of the award dated 12.02.1990 (Ex.D1) passed by the Tribunal would show that the respondents/plaintiffs have not been held entitled for continuity of service, as such, the period before the respondents/plaintiffs were brought on regular establishment cannot be taken into consideration for the purpose of seniority, pay fixation and promotion etc.



9. On the other hand, the learned counsel for the respondents/plaintiffs submits that once the Tribunal vide award dated 12.02.1990 has held that respondents/plaintiffs were entitled to be reinstated along with full back-wages, as such, the adhoc/work-charged period rendered by the respondents/plaintiffs before they were brought on regular establishment has to be taken into consideration for the purpose of seniority, pay fixation and promotion etc. It is also argued by learned counsel for the respondents/defendants that there is no rule which bars the appellant/defendant-Bank for not taking into consideration the adhoc/work-charged service rendered by the respondents/plaintiffs before being brought on regular establishment for the purpose of seniority, pay fixation etc.

10. I have heard learned counsel for the parties at length; perused the paper-book and have gone through the evidence led by the parties and the record placed before me.

11. The only issue involved in the present appeal is whether the adhoc/work-charged service rendered by the respondents/plaintiffs before they were brought on regular establishment can be taken into consideration for the purpose of seniority, pay fixation and promotion etc. A perusal of the facts of the case would show that the respondents/plaintiffs were appointed on the post of Clerk on adhoc/work-charged basis. The services of the respondents/plaintiffs were terminated vide order dated 20.07.1977. An industrial dispute was raised and vide award dated 12.02.1990 passed by the Tribunal, the respondents/plaintiffs were held entitled to be reinstated in service with full back-wages. Thus, an



inference has to be drawn that the respondents/plaintiffs were in service from the date their services were terminated till their reinstatement.

12. In regard to counting of adhoc/work-charged service for the purpose of seniority, pay fixation and promotion etc. is concerned, it is well settled law that if the initial appointment is as per the rules or in conformity with Articles 14 and 16 of the Constitution of India, the adhoc/work-charged period can be taken into consideration for the purpose of seniority, pay fixation and promotion etc. A perusal of the facts of the case would show that the respondents/plaintiffs were appointed on the post of Clerk by the Manager. It is not in dispute that the competent authority to appoint Clerk in the appellant/defendant-Bank was Managing Director and not the Manager who had appointed the respondents/plaintiffs. It is also not in dispute that posts were never advertised on which the respondents/plaintiffs were appointed. Taking into consideration the abovesaid facts, it is held that initial appointment of respondents/plaintiffs was not legal, as such, the adhoc period rendered by the respondents/plaintiffs cannot be taken into consideration for the purpose of seniority, pay fixation and promotion etc.

13. Reliance can be placed upon the judgment of Hon'ble the Supreme Court titled as ***Direct Recruit Class-II Engineering Officer's Association Vs. State of Maharashtra and others, 1990 (2) SCC 715***, wherein the Court has held that if the initial adhoc appointment is *de hors* the rules, the same cannot be taken into consideration for the purpose of seniority. The relevant extract from the abovesaid judgment in ***Direct***



Recruit Class-II Engineering Officer's Association's case (supra) is reproduced hereinbelow:-

“13. When the cases were taken up for hearing before us, it was faintly suggested that the principle laid down in [S.B. Patwardhan and others v. State of Maharashtra and others](#), 1977 3 SCC 399 was unsound and fit to be over-ruled, but no attempt was made to substantiate the plea. We were taken through the judgment by the learned counsel for the parties more than once and we are in complete agreement with the ratio decidendi, that the period of continuous officiation by a government servant, after his appointment by following the rules applicable for substantive appointments, has to be taken into account for determining his seniority; and seniority cannot be determined on the sole test of confirmation, for, as was pointed out, confirmation is one of the inglorious uncertainties of government service depending neither on efficiency of the incumbent nor on the availability of substantive vacancies. The principle for deciding inter se seniority has to conform to the principles of equality spelt out by [articles 14](#) and [16](#). If an appointment is made by way of stop-gap arrangement, without considering the claims of all the eligible available persons and without following the rules of appointment, the experience on such appointment cannot be equated with the experience of a regular appointee, because of the qualitative difference in the appointment. To equate the two would be to treat two unequals as equal which would violate the equality clause. But if the appointment is made after considering the claims of all eligible candidates and the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules made for regular substantive appointments, there is no reason to exclude the officiating service for purpose of seniority. Same will be the position if



the initial appointment itself is made in accordance with the rules applicable to substantive appointments as in the present case.....”

14. Taking into consideration the facts of the present case, relevant rules and evidence led by the parties, the present appeal is allowed. Accordingly, the judgment and decree dated 27.07.2005 passed by the Lower Appellate Court as well as judgment and decree dated 14.02.2005 passed by the trial Court are hereby set aside.

15. Pending application(s), if any, shall stand(s) disposed of.

09.02.2026

d.gulati

**(DEEPINDER SINGH NALWA)
JUDGE**

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No