High Court of Pur Chan

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Sub-Head No.			
File No.		CWP-9	9786-1995
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S. No.			Brief abstrac
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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. NO. 9786 OF 1995.

Udai Singh and others.

. PETITIONERS.

VERSUS.

State of Haryana and Anr.

.. RESPONDENTS.

I N D E X

S.No.	Particulars of Documents	Dated	Pages
1.	List of Dates and Events	22.4.1995	1 - 2
2.	Civil Writ Petition	22.4.1995	3 - 15
3.	Annexure P-1 (Notification)	28.12.1973	16
4.	Annexure P-2 (Details)		17 - 19
5.	Annexure P-3 (Representation)	31.8.1994	20
6.	Annexure P-4 (Memo.)	22.9.1994	21
7.	Annexure P-5 (Legal Notice)	4.1.1995	22 - 29
8.	Annexure P-6 (Extract)		30 - 34
9.	Power of Attorney Policies		35-39 - un/19

NOTES: 1. LAW POINTS: The main Law Points canvassed in this Writ Petition are contained in para No. 15 on pages 10 & 11 of the same.

2. RELEVANT STATUTES/RULES

Constitution of India.

3. SIMILAR CASE, IF ANY: C.W.P. No. 1393 of 1994, titled, "Phool Kanwar V/S. State of Haryana" involving the same Law Points, has been admitted on 9.2.1995 by the 4th Division Bench, headed by Hon'ble Mr. Justice N.C. Jain.

CHANDIGARH.

DATED : 22.4.1995.

(RAMESH GOYAL) A D V O C A T E,

COUNSEL FOR THE PETITIONERS.

· RA%″″SH GOYAL

ADVOCATE

PUNJA HARYANA HIGH COURT

Residence: Phones: High Court: 540429 540593

> Residence: Sector 37-D, CHANDIGARH

House No. 3033

Dated

∰ò.

The Registrar, Punjab and Haryana High Court, CHANDIGARH.

CIVIL WRIT PETITION TITLED, "UDAI SINGH SUBJECT OTHERS V/S.

STATE OF HARYANA AND ANR."

Sir,

It is submitted that the identical matter involving the same Law Points in C.W.P. No. 1393 of 1994 titled, "Phool Kanwar State of Haryana" has been admitted on 9.2.1995 by the 4th Division Bench, headed by Hon'ble Mr. Justice N.C. Jain. So to save the precious time of this Hon'ble Court, this case may also be listed before the same Division Bench.

Thanking you,

Yours faithfully,

(RAMESH GOYAL) ADVOCATE,

COUNSEL FOR THE PETITIONERS.

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. NO. 2786 OF 1995.

Udai Singh and others.

.. PETITIONERS.

VERSUS

State of Haryana and Anr.

.. RESPONDENTS.

1972 to 1990 The petitioners were appointed as Instructors in various trades on adhoc basis by duly constituted Departmental Selection Committees through the Employment Exchanges and rendered un-interrupted service till regularisation.

1977 to 1993 The services of the petitioners were regularised by the State of Haryana from time to time and there are no Departmental Rules governing the service conditions of the petitioners.

28.3.1994 A Tentative Seniority List circulated against which petitioners submitted Representations, as the Seniority Lists were not prepared by taking into consideration the total continuous length of service.

31.8.1994 The petitioners submitted Representations to the Respondents-Authorities to grant them benefit of adhoc service towards seniority.

. 2 .

28x3x1994

22.9.1994

Representation of the petitioner was rejected by the Respondent No. 2 by passing a non-speaking Order.

4.1.1995

The petitioners submitted a detailed Legal Notice to the Respondents-authorities, stating therein that their seniority was not fixed, after taking into consideration the total continuous service, especially when there were no specific Service Rules and they have rendered the uninterrupted service and further, they were selected by the duly constituted Selection Committees and all the formalities of regular selections and appointments were completed and there was no gap whatsoever in their service. So in the absence of the Rules, the seniority deserve to be fixed after taking into consideration the entire service on the basis of continuous length of service. decision has been conveyed of the Legal Notice, so far.

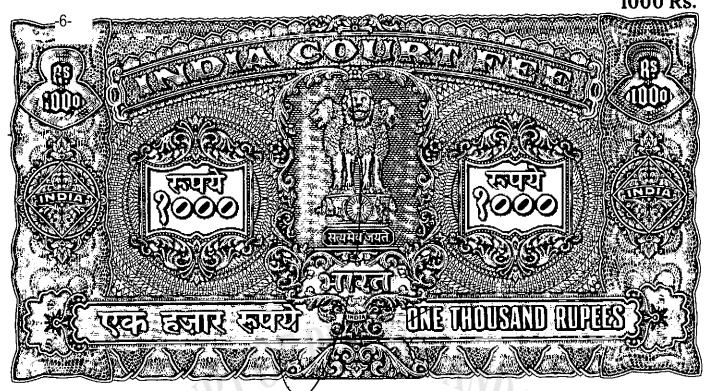
Hence, the present Writ Petition in this Hon'ble High Court.

CHANDIGARH.

DATED : 22.4.1995.

(RAMESH GOYAL) A D V O C A T E,

COUNSEL FOR THE PETITIONERS.



IN THE HIGH COURT FOR THE STATES OF PUND TA AHAMAHA AACHUP

cwp <u>9786</u> 95

UDAI SINGH and others.

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STATE OF HARUAMA.

CHD

(RAMESHGOVAL)

ADVIOCATE

Petitioner . _

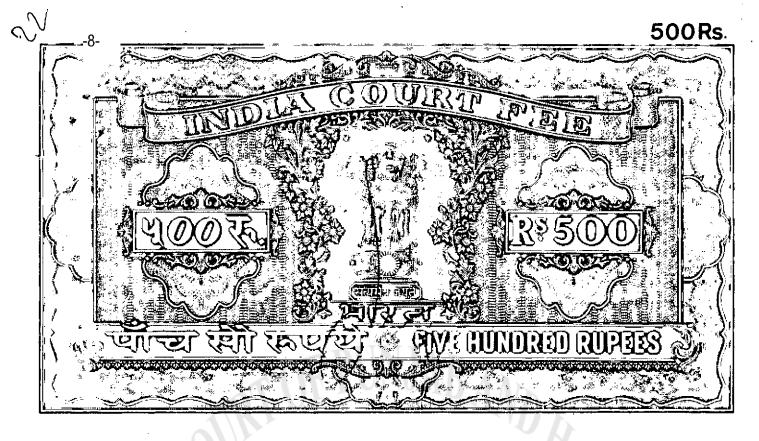


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	STATE OF HARMANA

CHD.

RAMGSH GOYAL)
ADVOCATE

PetitionER -- .



In the trigh court for the states of Pumpals and thangens at chd.

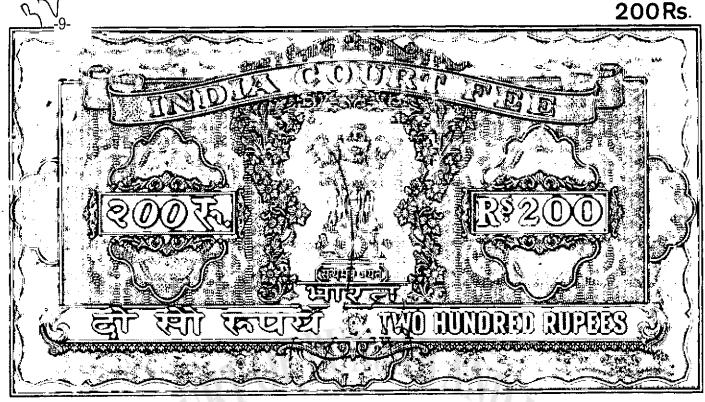
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CHD.

RAMESH GOYAL

ADVOCATE.

Petitioner _ -



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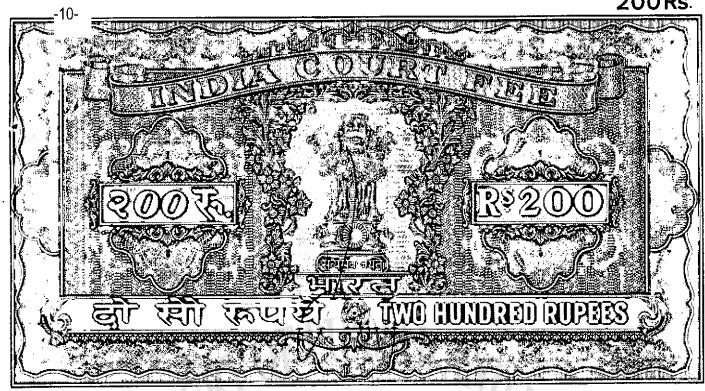
State of tranjana

Chd

(RAMESH GOYAL)

ADVO CATE

Petitioner



the tigh court for the States of

Pansab and Haryana at chal.

cwp 9786 g

adai singh & others

State of Hayans

Chd

RAMESH GOVAL)

Petitioner.

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

(CIVIL WRIT JURISDICTION)

CIVIL WRIT PETITION NO. 4786 OF 1995.

- 1. Udai Singh, Sheet Metal Instructor; +19+4in
- 2. Rameshwar Dass, D.M.C. Instructor;
- 3. Sunila Kumar Chauhan, Refrigeration & Air Conditioning
 - Instructor:
- 4. Partap Singh, Electronics Instructor;
- 5. Prem Singh, T.M. Instructor;
- 6. Rakesh Bhatija, Fitter Instructor;
- 7. Ram Kishan Singh, Plumber Instructor;
- 8. Balwan Singh, Fitter Instructor;
- 9. Gajender Singh, Sanitary Fitting Instructor;
- 10. Kamlesh Babu, Drawing Instructor;
- 11. Vijay Singh, Electronics Wiring Instructor;
- 12. Satish Kumar Behal, Math. Instructor;
- 13. Randhir Singh, Electronics Instructor;
- 14. Rishi Ram, Motor Winding Instructor;
- 15. Randhir Singh, Drawing Master;

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TOWENTY REFERENCE



- 16. Ram Saran, D.M.C. Instructor;
- 17. Charan Singh, Fitter Instructor;
- 18. Veena Kumari, S.S. Instructor;
- 19. Ashok Kumar, Machinist Instructor:
- 20. Mange Ram, A.T. Instructor;
- 21. Inder Singh Chauhan, Carpenter Instructor;
- 22. Wazir Singh, D.M.C. Instructor;
- 23. Mahavir Singh, S.S. Instructor;
- 24. Chander Parkash , Welding Instructor;
- 25. Krishan Kumar, Radio & T.V. Instructor;
- 26. Satya Bhushan, A.T.I./Math. Instructor:
- 27. Suraj Bhan, A.T.I. Instructor;
- 28. Suraj Mal Jain, Hindi Steno;
- 29. Chander Puri, Language Instructor;
- 30. Suresh Kumar, A.T.I. Instructor;
- 31. Ram Avtar, Instructor;
- 32. Suresh Kumar, Welding Instructor;
- 33. Ash Mohammad Khan, Drawing Instructor;
- 34. Veer Bhan, Math. Instructor;

.. 3 ..

- 35. Jai Bhagwan, Instructor;
- 36. Puran Chand Pandey, Instructor;
- 37. Charan Dass, Instructor;
- 38. Ranbir Singh, A.T.I. Instructor;
- 39. Devi Dutt Verma, Fitter Instructor;
- 40. Bir Singh, D.M/C Instructor;
- 41. Ramesh Parkash, Electronics Instructor;
- 42. Jai Pal, Instructor Painting;
- 43. Banarsi Dass, S.S. Instructor;
- 44. Jagdev Singh, Fitter Instructor;
- 45. Jai Parkash, Drawing Instructor;
- 46. Satish Kumar, Wireman Instructor;
- 47. Mohinder Singh, Machinist Grinder Instructor;
- 48. Hari Parkash, Wireman Instructor;
- 49. Attar Singh Attri, Engineering Drawing Instructor;
- 50. Randhir Singh, Electronics Instructor;
- 52. Rajbir, Turner Instructor;
- 53. Bharat Veer, Turner Instructor;
- 54. Ranjana Sharma, Electronics Instructor;

. 4 .

. 4 .

- 55. Rajinder Singh, Draftsman Mechanical Instructor;
- 56. Yogesh Sharma, Radio T.V. Instructor, Somepat
- 57. Daya Nand Sharma, Refrigeration & Air Conditioning Instructor;
- 58. Samai Singh, Math. Instructor, I.T.I., Rewari;
- 59. Tilak Raj, Motor Vehicle Body Builder Instructor;

All the above Petitioners are working in the Department of Industrial Training & Vocational Education, Haryana.

... PETITIONERS.

VERSUS.

to Government Haryana, Department of Industrial Training

Vocational Education, Haryana, Haryana Civil
Secretariat, Chandigarh;

The Director, Industrial Training & Vocational Education,
Haryana, Sector 17, Chandigarh.

.. RESPONDENTS.

CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India praying for the issuance of a Writ in the nature of Mandamus, Certiorari or any other appropriate Writ, Order or Direction, directing the respondents-authorities to count the seniority of the

.. 5 ..

-: 5 :-

appointment, as they were selected by a duly constituted Selection Committee and rendered uninterrupted service, without any break; so their seniority deserves to be fixed by continuous length of service, especially when there are no specific Service Rules and to grant other benefits, as prayed for.

RESPECTFULLY SHOWETH

- 1. That all the petitioners are residents of State of Haryana and being citizens and nationals of India, they are competent to invoke the extra-ordinary Writ Jurisdiction of this Hon'ble High Court, by way of filing the present Civil Writ Petition, under Articles 226/227 of the Constitution of India.
- 2. That all the petitioners are seeking the same relief, as such, the joint Writ Petition is maintainable.
- 3. That the respondent-State, exercising the powers conferred by Article 309 of the Constitution of India, read with Proviso to Clause '6' of the Haryana Government, General Administration Department, Notification No. 523-3.G.S.-70/2068 dated the 28th January 1970, excluded the posts of Instructors of the Industrial Training Department from the purview of the

.. 6 ..

Subordinate Services Selection Board, Haryana, vide Gazette Notification dated 1.1.1974. A copy of the same is annexed as P-1. Annexure P-1 with this Writ Petition.

- 4. That a Departmental Selection Committee was constituted for the purpose of appointment of various Instructors in the Industrial Training Institutes in the State of Haryana and the petitioners were appointed on adhoc basis on the recommendations of the duly constituted Selection Committee and all the formalities of regular selection and appointments were completed before their selection/appointment.
- 5. That the services of the petitioners were regularised subsequently and there was no gap whatsoever in their service.
- 6. That the details of the petitioners regarding their adhoc appointments as well as their regular appointments are P-2.
 - Tentative Seniority List of Instructors was 7. & Vocational Industrial Training Director, the Education, Haryana, vide No. T.E.99/3-94/7210 dated 28.3.1994. As per the letter, objections were also invited within 30 days and most of the petitioners submitted their objections, to the Tentative Seniority List and claimed that their position in the Seniority List be shown from the date of their joining, as there was no gap whatsoever, in their service, till their regularisation and furthermore, there were no specific Rules, which lay down that the seniority be fixed from the date of regular appointment.

... 7 .

P-3.

P-4.

That the petitioners submitted representations from 8. time to time, seeking the benefit of the adhoc service towards the seniority, as they were recruited by the competent authority, after following full procedure and they rendered uninterrupted service, without any break and were subsequently regularised. So the seniority of the petitioners deserves to be fixed on the basis of the length of service, by taking into consideration the entire service as on adhoc basis or on regular basis. Representations, the attention of the respondents-authorities was also drawn towards decision of the Hon'ble Courts, vide which it was held that the service rendered on adhoc basis, followed by regularisation, is as good service, as regular service and the same deserves to be counted for the purpose of seniority. copy of the Representation dated 31.8.1994 is attached as Annexure P-3 with this Writ Petition.

- 9. That the Representation of the petitioners was not considered objectively and the respondents-authorities rejected the Representation, Annexure P-3, without assigning any reason and without affording them an opportunity of hearing, by passing a non-speaking Order. A copy of the Order dated 22.9.1994 is attached as Annexure P-4 with this Writ Petition.
- That as the petitioners were not granted the benefit of the adhoc service and their seniority was not fixed after taking into consideration the total continuous service, especially when there were no specific Service rules and they had rendered

.. 8 ..

P-5.

-: 8 :-

Notice through their Counsel on 4.1.1995, stating therein that the petitioners were appointed by a duly constituted Selection Committee and all the formalities of regular selection and appointment were completed, before their selection/appointment and there was no gap whatsoever in their service. Further, there were no specific Service Rules, which laid down that the seniority be fixed from the date of regularisation. So min the absence of the Rules, the seniority of the petitioners deserve to be fixed, after taking into consideration the entire service on the basis of the continuous length of service. The attention of the authorities was also drawn towards the decision of the Hon'ble High Court. A copy of the detailed Legal Notice dated 4.1.1995 is attached herewith as Annexure P-5.

11. That not merely the seniority, even the petitioners are not being granted the benefit of proficiency step-up and special increments etc., though the same have been allowed to the regularly recruited employees. The respondents-authorities ought to have extended all the benefits to the petitioners, as has been allowed to the regular employees, after a specified period of service, by taking into consideration their earlier adhoc service. As the adhoc service, followed by regularisation, is as good as a regular service, as such, the action of the respondents-authorities in not granting the proficiency step-up and higher pay scales, after a specified period is highly arbitrary and uncalled for.

.. 9 ..

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- 12. That even while framing the Tentative Seniority List, no criteria for preparing the same, has been laid, as is evident from the tentative Seniority List, extract copy of P-6. which is attached as Annexure P-6 with this Writ Petition. Even the persons, who joined later on, they have been shown senior to the employees, who joined the service earlier. Somuch so, even in a number of cases, the dates of the entry into service and the regularisation, have been recorded wrongly. merely this, even in the cases of the petitioners, their interse seniority has not been fixed correctly, as is evident from the extract of the tentative Seniority List annexed with this Writ Petition (P-6). The tentative Seniority List deserves to be re-framed, after taking into consideration the continuous total length of service, rendered by the petitioners in the As such, the same deserves to be quashed and is not sustainable in the eyes of Law.
 - 13. That no it is settled law that the seniority is to be counted by taking into consideration the entire length of service. It has been held that in the absence of any Rules, the length of service should be the sole criteria to determine the seniority of the employees, as there are no Rules, regarding the determination of the seniority of the petitioners, so in the absence of any Rules, their seniority deserves to be fixed by taking into consideration, their length of service.
 - 14. That the Full Bench of this Hon'ble High Court, in the case of "Chandel Singh Versus. State of Haryana" in

.. 10 ..

C.W.P. No. 5592 of 1989, deiced on 23.9.1994, has held that when an appointment is as per Rules and not by way of stopgap arrangement and only a procedural formality is required to be complied with, then the service so rendered, will be taken into account towards the seniority in the Cadre. submitted that the petitioners were appointed on adhoc basis, after completing all the formalities and it was not a stop-gap and they continued to hold the posts till arrangement regularisation. no specific Rules Moreover, there are governing their service conditions. So their seniority deserves to be fixed by taking into consideration the service rendered by them on adhoc basis. Further, the Hon'ble Court held that if the appointment is otherwise regular, except for the deficiency of certain procedural defects, the said defects stand cured with the subsequent regularisation. So as all the formalities for the appointment were completed before their selection and the petitioners were selected by completing all the formalities and were allowed to continue to hold the posts without any interruption till their regularisation, so they are entitled to the benefit of the entire service towards seniority.

- 15. That the main Law Points, which arise in the present Civil Writ Petition, for the kind consideration of this Hon'ble High Court, are as under:-
 - (i) WHETHER the respondents-authorities were required to frame the Seniority List on the basis of the continuous length of service, in the absence of specific Service Rules?

.. 11 ..

- (ii) WHETHER the respondents-authorities are justified in not granting the benefit of proficiency step-up and special increments etc. to the petitioners, after the completion of specified period of service,? especially when the same is allowed to the regularly recruited employees?
- (iii) Whether the action of the respondents-authorities in not taking into consideration the entire service of the petitoiners for the purposes of seniority, is highly arbitrary, uncalled for and against the well settled cannons of justice ?
- (iv) Whether the action of the respondents-authorities is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India?
 - (v) Whether the respondents-authorities were justified in rejecting the Representations of the petitioners by passing a non-speaking order?
- 16. That under the circumstances, the petitioners have been left with no other efficacious and speedy remedy, except to approach this Hon'ble High Court, by way of filing the present

.. 12 ..

Civil Writ Petition under Article 226/227 of the Constitution of India.

17. That the petitioners have not earlier filed any such or similar Writ Petition, either in this Hon'ble High Court or in the Hon'ble Supreme Court of India..

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to :-

- (i) summon the records of this case for kind perusal of this Hon'ble Court;
- (ii) issue a Writ in the nature of Mandamus, Certiorari or any other appropriate Writ, Order or Direction, directing the respondents-authorities to count the seniority of the petitioners from the date of their initial appointments, as they were selected by a duly constituted Selection Committee and rendered uninterrupted service, without any break; so their seniority deserves to be fixed by continuous length of service, especially when there are no specific Service Rules;

.. 13 ..

- (iii) direct the respondents-authorities to allow the proficiency Step-up and higher pay scales, after rendering specific period of service as are being granted to the regular employees;
- (iv) issue any other appropriate Writ, Order or Direction, which this Hon'ble Court deems just and proper, keeping in view the peculiar facts and circumstances of this case;
- (v) exempt from filing the certified copies of AnnexuresP-1 to P-6 with this Writ Petition;
- (vi) dispense with the serving of advance notices upon the respondents;
- (vii) award the costs of this Writ Petition in favour of the petitioners and against the respondents.

CHANDIGARH.

DATED: 22.04.1995.

Udu Singh PETITIONER NO. 1.

ROUGH COUNSEL .

(RAMESH GOYAL), ADVOCATE.

VERIFICATION:-

Verified that the contents of paras Nos. 1 to 14, 16 & 17 of the above Writ Petition are true and correct to my knowledge and those of para No. 15 are based on the legal advice of the counsel, which are believed to be true.

DATED : 22.04.1995.

PETITIONER No. 1.

ANNEXURE : P-1.

HARYANA GOVERNMENT GAZ. JAN. 1, 1974.

PART-III.

HARYANA GOVERNMENT

GENERAL ADMINISTRATION DEPARTMENT

(GENERAL SERVICES).

Notification

The 28th December, 1973.

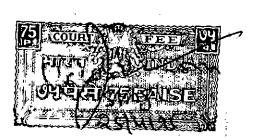
No. GSR.1/Const./Art.309/73 - In exercise of the powers conferred by Articles 309 of the Constitution of India, read with the proviso to clause 6 of the Haryana Government, General Administration Department notification No. 523-3GS-70/2068 dated the 28th January 1970, the Governor of Haryana hereby excludes the following posts of the Industrial Training Department from the purview of the Subordinate Services Selection Board, Haryana, namely:

Sr.No.	Name of the Post	Scale of Pay
1.	Senior Instructor	Rs.350-25-500/30-590/30-830/35-
		900.
2.	Instructor R	s.250-15-400-20-500/25-600.
3.	Demonstrator R	s.225-15-360/20 - 500.

Sd/- K.N. Kashyap, Chief Secretary to Government Haryana.

** TRUE COPY **

ADVOCATE.



ANNEXURE : P-2.

DETAILS

S.No.	Name of Petitioner	Date of adhoc Appointment	Date of Regular Appointment
	S/Shri		
1. 1.	Udai Singh	18.11.80	1.1.91
2.	Rameshwar Dass	18.11.82	1.1.91
3.	Sunil Kumar Chauhan	15.2.88	1.1.191
4.	Partap Singh	15.2.88	1.1.91
5.	Prem Singh	4.4.72	7.3.77
6.	Rakesh Bhatija	31.1.85	1.1.91
7.	Ram Kishan Singh	14.10.82	1.1.91
8./	Balwan Singh	9.9.83	1.1.91
9.	Gajinder Singh	28.1.87	1.1.91
10.	Kamlesh Babu	15.4.69	22.8.78
11.	Vijay Singh	15.10.86	1.1.91
12.	Satish Bhell	4.11.68	2.5.74
13.	Randhir Singh	5.3.83	1.1.91
14.	Rishi Ram	- 9.2.88	1.1.91
15.	Randhir Singh	11.9.86	1.1.91
16.	Ram Saran	20x10x86 9.7.85	1.1.91
17.	Charan Singh	20.10.86	1.1.91
18.	Veena Kumari	22.7.83	1.1.91



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19.	Ashok Kumar	18.11.87	1.1.91
20.	Mange Ram	8.7.85	1.1.91
21.	Inder Singh Chauhan	28.11.80	1.1.91
22.	Wazir Singh	15.5.85	1.1.91
23.	Mahavir Singh	28.8.84	1.1.91
24.	Chander Parkash	14.9.83	1.1.91
25.	Krishan Kumar	13.10.80	1.1.91
26.	Satya Bhushan	28.11.81	1.1.91
27.	Suraj Bhan	16.5.83	1.1.91
28.	Suraj Mal Jain	13.2.74	6.12.78
29.	Chander Puri	27.2.74	6.12.78
30.	Suresh Kumar	25.11.81	1.1.91
31.	Ram Avatar	1.8.86	1.1.91
32.	Suresh Kumar	22.12.88	1.1.91
33.	Ash Mohammad Khan	8.10.82	1.1.91
34.	Veer Bhan	28.11.86	1.1.91
35.	Jai Bhagwan	7.6.83	1.1.91
36.	Puran Chand Pandey	5.2.81	1.1.91
37.	Charan Dass	12.10.83	1.1.91
38.	Ranbir Singh	18.2.84	1.1.91

.. 3 ..

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-27-

39.	Devi Dutt Verma	19.11.87	1.1.91
40.	Bir Singh	5.3.85	1.1.91
41.	Ramesh Parkash Gupta	30.3.83	1.1.91
42.	Jai Pal	5.1.83	1.1.91
43.	Banarsi Dass	21.7.84	1.1.91
44.	Jagdev Singh	23.1.82	28.7.88
45.	Jai Parkash	29.9.81	1.1.91
46.	Satish Kumar	3.5.88	1.1.91
47.	Mohinder Singh	13.11.87	1.1.91
48.	Hari Parkash	4.12.80	1.1.91
49.	Attar Singh Atri	16.5.79	9.4.81
50.	Randhir Singh	21.7.84	1.1.91
51.	Rajbir	21.10.86	1.1.91
52.	Bharat Vir	14.1.90	1.4.93
53.	Rajni Sharma	3.5.88	1.1.91
54.	Raghubir Singh	18.5.8 5	1.1.91
55.	Rajendar Singh	26.11.77	1.1.80
56.	Yogesh Sharma	29.1.88	1.1.91
57.	Daya Nand Sharma	15.4.86	1.1.91
58.	Samai Singh	12.10.82	1.1.91.
59.	Tilak Raj	7.1.87	1.1.91

** TRUE COPY **

ADVOCATE.

ANNEXURE : P-3.

THROUGH PROPER CHANNEL.

To

The Director, Industrial Training & Vocational Education, Haryana, CHANDIGARH.

SUBJECT: Regarding Grant of benefit of the Adhoc Service towards seniority, as per the decision of Hon'ble Supreme Court.

Sir.

It is requested that I joined the service in your Department as a Refrigeration Instructor on 13.9.1983 on adhoc basis. My services were regularised w.e.f. 1.1.1991 and the benefit of seniority has been granted to me w.e.f. 1.1.1991, as per the Seniority List issued by you.

As per the decision of the Hon'ble Supreme Court in No. T.A. No. 1183/85 (C.W.P. No. 1868/85), decided on 6.3.87, the benefit of the seniority is to be granted from the date of inidial appointment. So you are requested that as per the decision of the Supreme Court to grant me seniority from the date of joining and correct the Seniority List accordingly.

Otherwise, I shall presume that I have been allowed to approach the Hon'ble High Court. So kindly send the reply within one month.

Thanking you,

Sd/-

Dated: 31.8.94.

(Sunil Kumar Chauhan)
Refrigeration Instructor.

Encl. : Copy of Supreme Court decision.

** TRUE TRANSLATION **

ADVO CATE.

V

ANNEXURE: P-4.

From:

Director, Industrial Training & Vocational Education, Haryana.

To

The Principal, Industrial Training Institute, Gurgaon.

Memo. NO.: TE/117/18/20676.

Dated: 22.9.94.

Subject: Regarding Grant of benefit of the Adhoc Service towards Seniority, as per the decision of the Hon'ble Supreme Court.

Your Memo. No. 6624 dated 31.8.94, on the subject cited above.

2. These Orders are not applicable to the case of Shri Sunil Kumar Chauhan, Refrigeration Instructor. He be informed accordingly.

Sd/-

Asstt. Director (Admn.-II).

for Director, Indl. Training and Vocational
Education, Haryana.

** TRUE TRANSLATION **

ADVO CATE.



ANNEXURE : P-5

RAMESH GOYAL,

M.A., LL.B.,

ADVOCATE,

PUNJAB & HARYANA HIGH COURT.

Residence: House No. 3033,

Sector 37-D, CHANDIGARH.

REGISTERED/A.D.

th January 1995.

Τo

- The Commissioner & Secretary to Government of Haryana, Department of Industrial Training & Vocational Education, Haryana Civil Secretariat, CHANDIGARH.
- The Director, Industrial Training & Vocational Education, Haryana, Sector 17, CHANDIGARH - 160 017.

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SUBJECT : LEGAL NOTICE

Dear Sir,

Under the instructions and on behalf of my clients, S/Shri Udai Singh, Rameshwar Dass, Sunil Kumar Chauhan, Partap Singh, Prem Singh, Rakesh Bhatija, Ram Kishan Singh, Balwan Singh, Gajinder Singh, Kamlesh Babu, Vijay Singh, Satish Bhell, Randhir Singh, Rishi Ram, Randhir Singh, Ram

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Saran, Charan Singh, Veena Kumari, Ashok Kumar, Mange Ram, Inder Singh Chauhan, Vazir Singh, Mahavir Singh, Chander Parkash, Krishan Kumar, Satya Bhushan, Suraj Bhan, Suraj Mal Jain, Chander Puri, Suresh Kumar, Ram Avtar, Suresh Kumar, Ash Mohammad Khan, Veer Bhan, Jai Bhagwan, Puran Chand Pandey, Charan Dass, Ranbir Singh, Devi Dutt Verma, Bir Singh, Ramesh Parkash Gupta, Jai Pal, Banarsi Dass, Jagdev Singh, Jai Parkash, Satish Kumar, Mohinder Singh, Hari Parkash, Attar Singh Atri, Randhir Singh, Rajbir, Bharat Vir, Rajni Sharma, Raghubir Singh, Rajendar Singh, Yogesh Sharma, Daya Nand Sharma, Samai Singh and Tilak Raj, I hereby serve you with the following Legal Notice:-

(i) That my above said clients were initially appointed as Instructors in various Trades on adhoc basis and subsequently, their services were regularised on various dates. My clients were appointed by the competent authority after following the full procedure and continued to hold the posts, without any break whatsoever in their services and subsequently, their services were regularised. The details of their adhoc appointment as well as regular appointments are given below:

S.No.	Name of Candidate	Date of adhoc Appointment.	Date of Regular Appointment
	S/Shri		
1.	Udai Singh	18.11.80	1.1.91
2.	Rameshwar Dass	18.11.82	1.1.91

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3.	Sunil Kumar Chauhan	13:9:83	1.1.91
կ, 5.	Partap Simph Prem Singh	15. 2 . 88	1.1-91 7.3.77
J.	rrem singn	7.7.74	7.5.77
6.	Rakesh Bhatija	31.1.85	1,1,91
7.	Ram Kishan Singh	14.10.82	1.1.91
8.	Balwan Singh	9.9.83	1.1.91
9.	Gajinder Singh	28.1.87	1.1.91
10.	Kamlesh Babu	15.4.69	22.8.78
11.	Vijay Singh	15.10.86	1.1.91
12.	Satish Bhell	4.11.68	2.5.74
13.	Randhir Singh	5.3.83	1.1.91
14./	Rishi Ram	9.2.88	1.1.91
15.	Randhir Singh	11.9.86	1.1.91
16.	Ram Saran	9.7.85	1.1.91
17.	Charan Singh	20.10.86	1.1.91
18.	Veena Kumari	22.7.83	1.1.91
19.	Ashok Kumar	18.11.87	1.1.91
20.	Mange Ram	8.7.85	1.1.91
21.	Inder Singh Chauhan	28.11.80	1.1.91
22.	Vazir Singh	15.5.85	1.1.91
23.	Mahavir Singh	28.8.84	1.1.91

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24.	Chander Parkash	14.9.83	1.1.91
25.	Krishan Kumar	13.10.80	1.1.91
26.	Satya Bhushan	28.11.81	1.1.91
27.	Suraj Bhan	16.5.83	1.1.91
28.	Suraj Mal Jain	13.2.74	6.12.78
29.	Chander Puri	27.2.74	6.12.78
30.	Suresh Kumar	25.11.81	1.1.91
31.	Ram Avtar	1.8.86	1.1.91
-3 2.	Suresh Kumar	22.12.88	1.1.91
33.	Ash Mohammad Khan	8.10.82	1.1.91
34.	Veer Bhan	28,11.86	1.1.91
35.	Jai Bhagwan	7.6.83	1.1.91
36.	Puran Chand Pandey	5.2.81	1.1.91
37.	Charan Dass	12.10.83	1.1.91
38.	Ranbir Singh	18.2.84	1.1.91
39.	Devi Dutt Verma	19.11.87	1.1.91
40.	Bir Singh	5.3.85	1.1.91
41.	Ramesh Parkash Gupta	30.3.83	1.1.91
42.	Jai Pal	5.1.83	1.1.91

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43.	Banarsi Dass	21.7.84	1.1.91
44.	Jagdev Singh	23.1.82	28.7.88
45.	Jai Parkash	29.9.81	1.1.91
46.	Satish Kumar	3.5.88	1.1.91
47.	Mohinder Singh	13.11.87	1.1.91
48.	Hari Parkash	4.12.80	1.1.91
49.	Attar Singh Atri	16.5.79	9.4.81
50.	Randhir Singh	21.7.84	1.1.91
51.	Rajbir	21.10.86	1.1.91
52.	Bharat Vir	14.1.90	1.4.93
53.	Rajni Sharma	3.5.88	1.1.91
54.	Raghubir Singh	18.5.85	1.1.91
55.	Rajendar Singh	26.11.77	1.1.80
56.	Yogesh Sharma	29.1.88	1.1.91
57.	Daya Nand Sharma	15.4.86	1.1.91
58.	Samai Singh	12.10.82	1.1.91
59.	Tilak Raj	7.1.87	1.1.91

(ii) That a tentative Seniority List of the Instructors was issued by the Director, Industrial Training and Vocational Education, Haryana, vide No. TE?99/3-94/7210 dated 28.3.1984. As per the letter, objections were also invited within 30 (Thirty) days and my above said clients submitted their

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objections to the tentative Seniority List and claimed that their positions in the Seniority List be shown from the dates of their joining the services i.e. the dates of adhoc appointments as there was no gap whatsoever in their service, till their regularisation and furthermore, there were no specific Rules, which lay down that the seniority be fixed from the date of regular appointment.

- (iii) That my clients also submitted Representations from time to time seeking the benefit of the adhoc service towards the seniority as they were recruited by the Competent Authority, after following full service, procedure and rendered uninterrupted subsequently any break and were without regularised, so their seniority deserve to be fixed on the basis of the length of service by taking into consideration the entire service as on adhoc basis or on regular basis.
- (iv) That in the tenative Seniority List issued by the Director, Industrial Training and Vocational Educationa, Haryana, seniority of my clients has been determined from the dates of their regular appointments and the persons, who joined the service subsequent to my clients, have been shown senior to my clients.

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- (v) That now it is settled Law that the seniority is to be counted by taking into consideration the entire length of service. The Hon'ble Supreme Court of India has categorically held that in the absence of any Rule, the length of service should be the sole criteria to determine the seniority of employees. The same view has been taken by the Full Bench of Hon'ble Punjab and Haryana High Court, Chandigarh. As there are no Rules regarding the determination of the seniority of my clients, so in the absence of any Rules, their seniority deserve to be fixed by taking into consideration their length of service.
- That it is pertinent to mention here that my above said clients were appointed on adhoc basis by a duly constituted Selection Committee and all the formalities of regular selection and appointment were completed before their selection/appointment. Further, my clients were regularised in accordance with the instructions issued by the State of Haryana. As there is no gap whatsoever in their service, so they deserve seniority from the dates of their initial appointments, which were in accordance with the Rules by the duly constituted Selection Committee.
- (vii) That my above said clients submitted the Representations from time to time requesting for the fixation of their seniority after taking into

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consideration their entire service, but till today, despite the repeated Representations, their seniority has not been properly fixed.

In view of the position explained above, I call upon to your goodself to fix the seniority of my above said clients from the date of their initial appointments, with all the consequential benefits and not from the dates of their regularisation, within a period of 2 (Two) months from the date of receipt of this Legal Notice, otherwise, I have the definite instructions from my clients to move the case to the Hon'ble Punjab and Haryana High Court at Chandigarh, for seeking justice and in that eventuality, the entire responsibility will be of yours and you will also be liable for the litigation expenses.

A Carbon Copy of this Notice has been retained in my Office for record and further necessary action.

Yours sincerely,

Sd/-

(RAMESH GOYAL)
ADVOCATE.

** TRUE COPY **

ADVOCATE.

ANNEXURÉ : P-6

rentative Seniority List of Instructors working in Industrial Training of Institutes Cadre as it stood on 1.1.93 for the purpose of promotion only).

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	S.No.	Name	Date of Birth	Date of entry in	Date of appoint-	Trade	Remarks
				Govt.	ment to		
				Service	the re-		
					post.	0 z	
	1.	2.	3.	4.	5.	6.	7.
							<u> </u>
	xx	xx	xx	xx	X	xx	xx
ner.	560.	Kamlesh Babu	1.1.42	28.3.68	22.8.78	Grinder.	
7	жx	жх	xx	xx	жx	xx	xx
1	597.	Rajender Singh	25.5.55	26.11.77	1.1.80	D.M.M.	
	ĸх	xx	xx	xx	хх	хx	xx
	645.	Attar Singh	30.8.57	9.4.81	9.4.81	Drawing.	
7	• •	xx	хх स्ट	xx q GR	xx	xx	xx
	753.	Ashwani Kumar	1.1.55	10.5.78	1.1.91	Fitter.	
		xx	жx	xx	xx	xx	
}	759.	Udey Singh	25.6.53	18.11.89	1.1.91	Sheet Metal	•
***	760.	Inder Singh	5.6.58	28.11.80	1.1.91	Carpenter	
	761.	Hari Parkash	9.4.54	4.12.80	1.1.91	Wireman	
	•	xx	xx	xx	xx	xx	xx

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1.	2.	3.	4.	5.	6.	7.
763.	Puran Chand Panda		12.1.58	5.2.81	1.1.91	Steno Hindí.
	xx	xx	xx	хx	xx ,	xx
769.	Jai Parkash (SC)	20.4.57	29.9.81	1.1.91	Drawing.	
	xx	××	xx	**	xx	жx
779.	Suresh Kumar	10.10.55	25.11.81	1.1.91	A.T.1.	
	xx	xx	xx	xx	хx	xx
792.	Ash Mohd.	15.3.60	8.10.82	1.1.91	Drawing.	
793.	Samay Singh, ESM	15.3.60	12.10.82	1.1.91	Math.	
794.	Ram Kishan	16.3.59	14.10.82	1.1.91	Plumber	
	xx	xx	xx	xx	xx	xx
799.	Rameshwar Dass,BC	15.8.63	18,11.82	1.1.91	Dratsmen Ci	vil
	xx	xx सट	I <mark>भे</mark> व जय	xx	xx	хх
801.	Jai Pal	2.2.59	24.12.82	1.1.91	Painter.	
	xx	xx	xx	xx	xx ·	xx
803.	Ramesh Parkash	9.11.59	30.3.83	1.1.91	Electrician	•
	xx	xx	xx	xx	xx	хх
814.	Jai Bhagwana	14.12.58	22.6.83	1.1.91	Plumber.	
	хх	xx	xx	xx	xx	xx

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1.	2.	3.	4.	5.	6.	7.
819.	Veena Kumari	26.1.58	22.7.83	1.1.93	Social Study	,.
	xx	xx	xx	хx	xx	xx
833.	Sunil Kumar,SC	10.10.59	13.9.83	1.1.91	Ref. & Air	Cond.
	xx	xx	хх	xx .	жx	xx
835.	Chander Parkash	26.10.58	14.9.83	1.1.91	Welder.	
836.	Charan Dass	5.4.61	12.10.83	1.1.91	A.T.I.	
837.	Ranbir Singh	10.5.56	18.10.83	1.1.91	-do-	
xx	xx	хx	xx	жx	xx	жx
851.	Randh Singh, ESM	26.10.4	4	21.7.84	1.1.91	Electrician
	xx	xx	хх	xx	xx	хx
855.	Mahavir singh	4.3.56	30.11.84	1.1.91	Social Stud	у
	xx	xx	xx.	xx	хх	жx
860.	Rakesh Kumar	22.7.58	31.1.85	1.1.91	Fitter.	
	xx	xx	xx	xxx]	xx	хх
862.	Vir Singh	4.3.60	5.3.85	1.1.91	D.M.C.	
	xx	хх	xx	xx	xx	xx
873.	Wazir Singh	4.12.58	15.5.85	1.1.91	D.M.C.	
873.	Raghbir Singh,	5.6.44	18.5.85	1.1.91	-do-	
	S.C./E.S.M.					
	xx	xx	xx	xx	xx	xx

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1.	2.	3.	4.	5.	6.	7.
		<u> </u>				<u></u>
877.	Mange Ram	11.1.49	8.7.85	1.1.91	A.T.I.	
878.	Ramsaran, SC	12.4.60	8.7.85	1.1.91	D.M.C.	
	xx	xx	xx	xx	хх	хx
891	Daya Nand, BC/	7.3.46	15.4.86	1.1.91	Refg./Air C	ond.
	ESM					
	xx	xx	xx	xx	xx	xx
920.	Balwan Singh, SC	10.4.64	13.10.86	1.1.91	D.M.C.	
	xx	хх .	xx	xx	xx	
922.	Vijay Singh	28,12.64	15.10.86	1.1.91	Solding.	
	xx	xx	xx	xx	xx	xx
925.	Charan Dass	6.2.62	20.10.86	1.1.91	Fitter.	
	xx	xx	xx Ha GR	xx	xx	
927.	Rajbir Singh	5.10.60	21.10.86	1.1.91	Turner.	
	xx	xx	xx	xx	хх	хx
934.	Birbhan	30.11.65	28.11.86	1.1.91	A.T.I.	
	жх	хх	xx	xx	xx	хх
950.	Gajinder Singh	9.4.58	28.1.87	1.1.91	Sanitary Fi	itting.
	xx	жx	xx	жx	xx	хх

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1.	2.	3. 	4.	5.	6.	7.
978.	Mohinder Singh	15.1.53	13.11.87	1.1.91	Machinist.	
	xx ·	xx	xx	xx	xx	xx
986,.	Ashok Kumar	24.1.62	18.11.87	1.1.91	Machinist.	
	хх	хх	хх	хх	xx	
989.	Devi Dutt Verma, BC.	31.7.61	19.11.87	1.1.91	Fitter.	
	xx	xx	xx	xx	xx	xx
992.	Yogesh Chand	1.6.63	29.1.88	1.1.91	Radio/T.V.	
	xx	xx	xx	жx	xx	хх
994.	Rishi Ram	8.4.63	9.2.88	1.1.91	Motor Weldi	ing.
	xx	хх	xx	xx	xx	
1006.	Satish Kumar	13.3.65	3.5.88	1.1.91	Wireman.	
1007.	Rajani Goswami	1.6.69	3.5.88	1.1.91	Electronic	s.
	xx	хх	хх	xx	xx '	хx

ADVO CATE.

** TRUE EXTRACT COPY **

IN THE HON BLE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CIVIL WRIT PETITION NO. 9786 of 1995.

Udai Singh and others

. Petitioners

V/S

State of Haryana

. Respondents.

WRITTEN STATEMENT OF ASHOK KUMAR GUPTA,
ASSISTANT DIRECTOR (ADMN.-II), DEPARTMENT
OF INDUSTRIAL TRAINING AND VOCATIONAL
EDUCATION, HARYANA, CHANDIGARH ON BEHALF
OF RESPONDENT NO. 1 & 2.

RESPECTFULLY SHOWETH:

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PRELIMINARY OBJECTIONS :-

That it was held by the Punjab and Haryana High Court 1. in the reported cases as Sohan Lal V/s State of Haryana and others 1992(3)RSJ 534 PH and Mansud Akthar and others versus State of Madhya Pradesh and ethers 1990(5) SLR 639(SC) that the service rendered by a person on adhec basis before his regular appointment in a cadre in other service can not be counted for seniority. It was also held by the full bench of the Hon'ble High Court that the adhoc service can not be counted for the purpose of seniority. Further, it is, hewever, submitted that one Shri Maha Singh & others filed a C.W.P. No. 4127 of 1995 in the Hen'ble Punjab and Haryana High Court, seeking therein to grant him the benefit of adhec service. The same came up for hearing beforethe Motion Bench of the Hen'ble High Court on 21.9.95 and the Hen'ble Court has dismissed the same (Copy attached as Annexure R-1). view of the orders of this Hon'ble Court, the present writ petition may kindly be dismissed on this score alone.

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ON MERITS

1. That para No. 1 of the writ petition is admitted to the extent that the petitioners are citizens of India. No legal and constitutional right of the petitioners have been infringed and as such they have no right to approach this Hon'ble Court.

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- 2. That in reply to para No.2 of the writ petition, it is submitted that the petitioners are working in the Department of the answering respondents, but they are not entitled to file the joint writ petition.
- That para 3 of the writ petition is admitted being a matter of record.
- 4. That in reply to para 4 of the writ petition, it is submitted that the petitioners were initially appointed on adhec basis and later-on the services of all the petitioners were regularised w.e.f. 1.1.91 according to Govt. orders dated 28.2.91.
- 5. That para 5 of the writ petition is admitted being a matter of record.
- 6. That in reply to para 6 of the writ petition admitted being a matter of record.
- That in reply to para 7 of the writ petition, it is submitted that a tentative seniority list of Instructions was issued on 28.3.94 and the objections were invited from all the Instructors. After considering the objections raised by the petitioners, it had been found that the representations made by them had no force, hence were rejected after due consideration and they had also been informed accordingly.
- 8. That in reply to para 8 of the writ petition, the averments made in the foregoing paragraphs are reiterated.
- 9. That in reply to para 9 of the writ petition, it is submitted that the representations submitted by the petitioners were duly considered and rejected.

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- 10. That in reply to para 10 of the writ petition it is admitted that legal notice was received by the answering respondent. After considering the legal notice, comments were sent to Gevt. and the notice was ignored. Regarding rest of the para, averments made in the preliminary objections are re-iterated.
- 11. That in reply to para 11 of the writ petition, it is submitted that according to Government instructions, the petitioners are not entitled for the higher standard pay scale. However, the petitioners are getting the pay admissible to them.
- 12. That in reply to para 12 of the writ petition, it is submitted that a tentative seniority list of Instructors has been circulated by the answering respondents and objections have been invited from them so that after considering their representations the final seniority list could be issued. The adhect services of the instructors, who were working on adhect basis, were regularised as per Govt. Notification w.e.f. 1.1.91.

 Naturally their names in the seniority have been incorporated w.e.f. 1.1.91, the date from which their services were regularised.
 - 13. That in reply to para 13 of the writ petition, it is submitted that the detailed reply has already been given in the foregoing paragraphs.
 - 14. That in reply to para 14 of the writ petition it is submitted that the case law referred i.e. Civil Writ petition No. 5592 of 1989 titled as Chambel Singh Versus State of Haryana has not been finally decided. This Civil Writ Petition was ordered/directed to be placed before the Division Bench for disposal. Hence the petitioners are not entitled for any relief as prayed for.

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- That in reply to para 15 of the writ petition, it is 15. submitted that no law point is involved in this case which requires ad-judication by the Hon'ble High Court.
- 16. That in reply to para 16 of the writ petition, it is submitted that no cause of action has accrued in favour of the petitioners and hence they are not entitled to approach this Hen'ble High Court.
- That para 17 of the writ petition is denied for want 17. of knowledge.

In the light of submissions made above, it is therefore, respectfully prayed that the present writ petition may kindly be dismissed with costs.

Place: Chandigarh Dated:

(ASHOK KUMAR GUPTA) Assistant Director (Admn.II) en behalf of Respondents No. 1 & 2.

VERIFICATION:

Verified that the contents of preliminary objections and centents of reply on merits from para No. 1 to 17 are true and correct on the basis of information derived from the official record which I believe to be correct. Legal submissions have been made as per advice. Nothing has been concealed therefrom.

(ASHOK KUMAR GUPTA)

Assistant Director (Admm.II) on behalf of Respondents No. 1 & 2.

Place: Chandigarh Dated:





ANNEXURE R-1

From

The Advocate General, Haryana, Chandigarh.

To

The Director of Industrial Training and Vocational Education, Haryana.

Memo No. 8055 Dated Chandigarh; the 23.9.95

Subject: Civil Writ Petition No. 4127 of 1995-Maha Singh Versus State of Haryana etc.

Ref. your Memo No. KC/TE/148/Seniority/ Court Case/9661 dated 16.5.95.

The above noted case came up for hearing before the Motion Bench on 21.9.95 and was dismissed.

Sd/-

Advocate General, Haryana

TRUE COPY

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. NO. 9786 OF 1995.

Udai Singh and others.

PETITIONERS.

VERSUS.

State of Haryana etc.

RESPONDENTS.

REPLICATION TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS.

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RESPECTFULLY SHOWETH :-

REPLY TO THE PRELIMINARY OBJECTIONS :-

1. In regard to the Preliminary Objections, it is submitted that the reliance has been placed on the case of "Sohan Lal Versus. State of Haryana and others", 1992 (3) R.S.J. p.554, whereas this case was referred to the Full Bench in the case of, "Chambel Singh Versus. State of Haryana", decided on 23.09.1994 and the Full Bench, after considering both the authorities cited in the Preliminary Objections, placing reliance on the Judgment of the Constitution Bench of the Hon'ble Supreme Cort of India in the case of "Direct

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Recruit Class-II Engineering Officers' Association", A.I.R. 1990 Supreme Court p.1607, laid down that if the appointment is otherwise regular, except for the deficiency of certain procedural defect, such defect stands cured with subsequent Admittedly, the posts of Instructors were regularisation. excluded from the purview of Subordinate Services Selection Board, Haryana and the petitioners were appointed on the recommendations of the duly constituted Departmental Selection Committee and rendered uninterrupted continuous service, without any break and further, there are no specific Service Rules governing the conditions of services of the petitioners, so now it is settled Law that if the conditional appointment is made by following the procedure laid down by the Rules and the appointee continues in the post uninterruptedly till the regularisation of service, the period of officiation/adhoc service shall be counted towards seniority.

Further, in the Writ Petition, the petitioners have also sought the benefit of proficiency step-up and special increments etc., which have not been granted to the petitioners on the ground that they have not rendered continuous regular service, whereas the benefit has been granted to the persons, who joined on regular basis, subsequent to the petitioners. This point has specifically been considered by the Full Bench of this Hon'ble Court in the case of "Rakesh Kumar Singla Versus. State of Haryana and others" decided on 21.07.1995, reported as 1995(4) S.C.T. p.285. In view of the decision of

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the latest Full Bench also, the petitioners are entitled to the benefit as sought in the Writ Petition. Even C.W.P. No. 1393 of 1994 titled, "Phool Kanwar Versus. State of Haryana", involving the same Law Points has been admitted by the 4th Division Bench of this Hon'ble Court. As such, the contents of the Preliminary Objections are devoid of any merit.

ON MERITS :-

- 1. In reply to para No. 1 of the Written Statement, it is denied that no legal or constitutional right of the petitioners has been infringed and they have no cause of action. The contents of para No. 1 of the Writ Petition are reiterated to be correct.
- 2. That the contents of para No. 2 of the Written Statement are denied to the extent that the petitioners are not entitled to file the joint Writ Petition, whereas the petitioners are entitled to file the joint Writ Petition, as they are seeking the same relief.
- 3. The contents of para No. 3 of the Writ Petition have been admitted, hence, it needs no replication.
- 4. In reply to para No. 4 of the Written Statement, it is reiterated that the petitioners were appointed on adhoc basis on the recommendations of the duly constituted

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Departmental Selection Committee and all the formalities of regular selection and appointment were completed before their selection/appointment.

- In reply to para No. 5 of the Written Statement, it has been admitted by the respondents-authorities that the petitioners rendered continuous service, without any gap and were subsequently regularised. Hence, no replication is required in regard to para No. 5 of the Written Statement.
- 6. The contents of para No. 6 of the Writ Petition have been admitted in the Written Statement, hence, it needs no reply.
- 7. In reply to para No. 7 of the Written Statement, it is denied that the Representation was rejected after due consideration. The averments made in para No. 7 of the Writ Petition are reiterated to be correct.
- 8. The contents of para No. 8 of the Writ Petition have not been denied by the respondents in the Written Statement, hence, the contents of para No. 8 of the Writ Petition are reiterated to be correct.
- 9. In reply to para No. 9 of the Written Statement, it is denied that the representations of the petitioners were duly considered. The contents of para No. 9 of the Writ Petition are reiterated to be correct.

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- 10. In reply to para No. 10 of the Written Statement, it is submitted that the plea of the respondents-authorities that the Legal Notice received by the authorities was ignored, is highly uncalled for, especially when from the contents of para No. 10 of the Writ Petition and Annexure P-5, it is evident that the petitioners deserve seniority from the date of their initial appointment as they were selected by the duly constituted Selection Committee and rendered uninterrupted service, without any break. So their seniority deserve to be fixed by continuous length of service, especially when there are no specific Service Rules.
- 11. In reply to para No. 11 of the Written Statement, it is denied that the petitioners are not entitled to proficiency step-up and higher pay scale. The instructions, as alleged, have been considered and interpreted by the Full Bench of this Hon'ble Court in the case of Rakesh Kumar Singla Versus. State of Haryana, C.W.P. No. 15034 of 1993, decided on 21.7.1995, reported as 1995(4) S.C.T. p.285. In view of the decision of the Full Bench, the petitioners are entitled to the benefits, as claimed by them. As such, the contents of para No. 11 of the Writ Petition are reiterated to be correct.
- 12. The contents of para No. 12 of the Written Statement have not been stated correctly. As such, the same are denied being wrong, whereas the contents of para No. 12 of the Writ Petition are reiterated to be correct.
- 13. The contents of para No. 13 of the Writ Petition have not been denied, as such, no replication is required.
- 14. Para No. 14 of the Written Statement that the case law referred in C.W.P. No. 5592 of 1982 has not been finally decided, is wrong, hence, denied. Whereas the law has been laid down by the Full Bench of this Hon'ble Court, as

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mentioned in para No. 14 of the Writ Petition and the Hon'ble Division Bench is to decide the matter, as per the law laid down by the Hon'ble Full Bench. Hence, the petitioners are entitled to the benefit, as per the decision of the Full Bench of this Hon'ble Court, as cited in para No. 14 of the Writ Petition. The contents of para No. 14 of the Writ Petition are reiterated to be correct.

- 15. The contents of para No. 15 of the Written Statement are wrong, hence, denied and that of the Writ Petition are reiterated to be correct.
- 16. The contents of para No. 16 of the Written Statement are wrong, hence, denied and that of the Writ Petition are reiterated to be correct.
- 17. Para No. 17 of the Written Statement is formal, hence, needs no reply.

Urit Petition may be allowed with costs, as prayed for the CHANDIGARH.

PETITIONER.

THROUGH COUNSEL

DATED : 19.12.95

(RAMESH GOYAL), ADVOCATE.

VERIFICATION :-

Verified that the contents of paras Nos. 1 to 17 of the above Replication are true and correct to my knowledge and those of in reply to 'Preliminary Objections' are based on the legal advice of my counsel, which are believed to be true. No part of it is false and nothing has been concealed therein.

CHANDIGARH.

DATED : 19.12.95

PETITIONER No. 1.

Uclay Singh

IN THE HIGH COURT OF PUNJAB AND

CM-16640 07 in

aup No.9786/as. Udai Singh etc

Versus

OF 200.

<u>Petitioner/s</u> Appellant/s

AND

Stof ty de

Respondent/s

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Application for which urgency is claimed should be submitted to the Deputy Registrar before 11 a.m. and will ordinarily be laid before the Judge appointed to dispose the applications of this class with his petitions on the day following that on which the application is presented.

The application may, however, if specifically requested and the reasons for the request stated, be submitted for orders on the day of presentation. In no case, however, will an application received after 11 a.m. be submitted for orders on the day of presentation.

8293/HC—Item 9—Govt. Press, U.T., Chd.

FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CM. 16640/2007 In CUP: 9786/1995

The Addl. Registrar, High Court, Chandigarh.

Title of case

udai Sing 17 Petitioner/Applicant

State of HI Jek Respondent.

Sir

To

Will you kindly treat the accompanying petitions as an urgent one in accordance with the provision of Rule 9, Chapter 3-A, Rules and Order High Court, Volume V.

2. The grounds of urgency are—

Early hearing is proyes for, hence repency.

Per 312/07

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Dated 3/10/2507

Yours faithfully, Notes Goya L Advoacate.

for Petitioner.

PR 13/08

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Civil Misc. No. 1 6640 of 2007

In C.W.P. No. 9786 of 1995

Udai Singh and others.

... Petitioners

Versus

State of Haryana and others.

.. Respondents

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 Application U/s 151 CPC for early hearing the writ petition.

3,10,2007

L -- 3

Note: i) P/A is already on the record.

Copy has been given to the opposite counsel.

Chandigarh:

Dated: 3.10.2007

(Ramesh Goyal)

Advocate.

Counsel for the Petitioners Enrolment No.P-719/1983.

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Misc. No. 16640 of 2007

In C.W.P. No. 9786 of 1995

Udai Singh and others.

... Petitioners

Versus

State of Haryana and others. ... Respondents

Application U/s 151 CPC for early
hearing.

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Respectfully Showeth:

- That the above mentioned writ petition was filed by the petitioners seeking a writ of Mandamus directing the respondent authorities to count the seniority of the petitioners from the date of their initial appointments as they were selected by a duly constituted Selection Committee and rendered uninterrupted service, without any break so their seniority be fixed by continuous length of service especially when there were no specific service rules and policy to grant other service benefits.
- 2. That the above said writ petition was admitted by this Hon'ble Court after hearing both





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the parties by a Division Bench of this Hon'ble Court on 30.1.1996.

- 3. That a seniority list of Instructors working in Industrial Training Institutes Cadre as it stood on 31.3.2005 has been issued by the respondent authorities.
- 4. That further on the basis of tentative seniority list as stood on 31.3.2005 the promotions of the instructors have been ordered on 9.2.2007.
- 1. That on the basis of tentative seniority list further promotions of about 40 Instructors are likely to be made and out of 40 Instructors likely to be promoted, the most of them have joined subsequent to the petitioners. As the petitioners claim seniority from the date of their initial appointments so in case the benefit claimed by the petitioners in the writ petition is granted to them then they will be promoted over and above the persons who joined subsequent to them.
- 6. That the above said writ petition is complete in all respects and has been admitted on 30.1.1996 and the case was filed more than 12 years back so it will be in the interest of justice if this Hon'ble Court is pleased to order to fix the case on some actual date for final hearing.

It is, therefore, most respectfully prayed that this application be allowed and the above said writ petition may kindly be ordered to be enlisted on some actual date for final hearing, in the interest of justice.

Any other order which this Hon'ble Court may deem fit may kindly be passed.

Note: No affidavit is required.

Chandigarh:

Dated: 3.10.2007

(Ramesh Goyal

Advocate

For the Petitioners.