

Amar Singh and others v. The State of Punjab and others  
(D. S. Tewatia, J.)

that was done the Government merely kept the dates of appointments in view while effecting such ad-hoc promotion.

(29) For the reasons aforementioned, I hold that the initial appointment of respondents to the L.P.As and petitioners in C.W.P. No. 395 of 1979 as also of those who were appointed in the like manner by the Controllers in pursuance of Annexure P. 3 as Sub-Inspector, Food & Supplies, was on ad hoc basis and was not governed by the rules. Their appointment to the service came to be governed by the said rules with effect from the date their services were regularised in terms with effect from the date their services in Annexure P. 7 to LPA No. 678/1980. That date was 1st January, 1973, and therefore, clause 7 in their appointment letter, the legal validity where of arises for consideration in the six L.P.As is legal and valid.

It is not disputed that if their date of appointment is taken to be 1st January, 1973 then their seniority *qua* their colleagues respondents 3 to 180 in C.W.P. No. 395 of 1979 is correctly reflected both in the tentative seniority list Annexure P-5 and final seniority list Annexure P. 6.

(30) For the reasons aforementioned I allow the Letters Patent Appeal No. 658 and 675 to 679 of 1980, set aside the judgment of learned single Judge and dismiss the writ Petitions No. 1616, 1604, 1640, 3288, 1078 and 1639 of 1978. I also dismiss C.W.P. No. 395 of 1979 and allow C.W.P. No. 441 of 1981 No order as to costs.

S. S. Sandhawalia, C.J.—I agree.

N. K. S.

Before S. S. Sandhawalia, C.J. and S. S. Sodhi, J.  
SATHI ROOP LAL,—Petitioner.

*versus*

STATE OF PUNJAB AND ANOTHER,—Respondents.

Civil Writ Petition No. 3527 of 1983.

September 14, 1983.

*Punjab State Legislature Members (Pension and Medical Facilities Regulation) Act (V of 1977)—Section 3—Member of the State*

*Legislature serving in two separate terms for a period falling short of five years by not more than three months—Such member—Whether entitled to pension.*

*Held*, that the case of members who have served in more than one terms is squarely and completely covered by sub-section (1) of section 3 of the Punjab State Legislature Members (Pension and Medical Facilities Regulation) Act, 1977. This inflexibly provides for a period of five years whether continuous or not. Sub-section (1-A) in express terms is applicable only where a member had served for a full term of the legislative assembly but that term falls short of five years by a period of not exceeding three months. The use of the specific words 'for a full term' obviates its applicability to a case where a member has served not a full term of a legislative assembly but small periods of time in more than one term. It appears to be plain that as originally enacted the statute had the clear intent of prescribing a minimum period of five years for eligibility for pension. The full term of a Legislative Assembly visualised by the Act is fixed by the Constitution to be five years. The working of the Act, however, brought to the fore the fact that Legislative Assemblies are sometimes dissolved a little before the period of five years for the purposes of the next general elections. The amendment of 1979 was, therefore, necessitated primarily for the cases of those members who had virtually served for the full term of five years of the Legislative Assembly but were marginally short thereof by three months. Sub-section (1-A) of section 3 of the Act was, therefore, directed to this end alone and has little relevance or application to the cases of the members who may have served in the Legislative Assembly in two terms or more. Thus, a member of the Punjab Legislative Assembly who had served for a total period falling short of five years by not more than three months in two separate terms would not be entitled to pension and medical benefits under the Act.

(Paras 2 and 3)

*Petition under Articles 226 and 227 of the Constitution of India praying that :—*

- (a) *issue a writ in the nature of Certiorari or any other writ, order or direction appropriate in the circumstances of the case quashing the impugned order annexure P-3, and further respondents be directed to proceed in accordance with law;*
- (b) *filing of certified copies of the annexures may kindly be dispensed with;*
- (c) *any other relief which in the circumstances of the case the petitioner is found entitled, may kindly be granted to the petitioner;*

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(d) *the writ petition may be allowed with costs.*

Ashok Bhan with Ajay Mittal, Advocates, for the Petitioner.

H. S. Bedi, D. A. G. (Pb) for Respondent No. 2.

JUDGMENT .

S. S. Sandhawalia C.J.

(1) Whether a former member of the Punjab Legislative Assembly who has served for a total period of four years and nine months but less than five years in two separate terms would be entitled to pension and medical benefits under the Punjab State Legislature Members (Pension and Medical Facilities Regulation) Act, 1977 is the solitary question raised in this writ petition. We are of the view that on the plain reading of the statute, the answer must be rendered in the negative.

(2) Admittedly Sathi Roop Lal petitioner had served for a total period of 4 years 10 months and 18 days in two terms as under:—

- (i) From 13th March, 1969 to 13th June, 1971;
- (ii) From 1st July, 1979 to 16th February, 1980.

He laid claim to a pension under section 3 of the Punjab State Legislature Members (Pension and Medical Facilities Regulation) Act, 1977 (hereinafter called the Act). This was considered with meticulous care by the Secretary of the Punjab Vidhan Sabha and by his detailed order, annexure P.3 he rejected the claim on the ground that the total period of the two terms of the writ petitioner as a member of the Sabha fell short of the term of five years prescribed in section 3 (1) of the Act. Since the issue turns on the plain construction of section 3(1) as amended by the Punjab State Legislature Members (Pension and Medical Facilities Regulation) Amendment Bill, 1979, it is apt to quote the same :—

“3(1) From the date of commencement of this Act there shall be paid to every person who has served as a member for a period of five years, whether continuous or not, a pension of three hundred rupees per mensem.

(1-A) where a person has served as member for full term of a Legislative Assembly but that term falls short of five

years by a period not exceeding three months such person shall, for the purposes of sub-section (1), be deemed to have served as a member for a period of five years:

Provided that where any person has served as aforesaid for a period exceeding five years, there shall be paid to him an additional pension of fifty rupees per mensem for every year in excess of five so, however, that in no case the pension payable to such person shall exceed five hundred rupees per mensem."

Learned counsel for the petitioner had attempted to place tenuous reliance on the subsequently inserted provisions of sub-section (1-A) for contending that even if the total period in two terms fell short of five years by a period not exceeding three months, a member would be entitled to a pension. We are unable to agree. It is plain that the case of members, who have served in more than one term is squarely and completely covered by sub-section (1) of section 3. This inflexibly provides for a period of five years whether continuous or not. Sub-section (1-A) on which reliance is sought to be placed by the petitioner in express terms is applicable only where a member had served for a full term of the legislative assembly but that term falls short of five years by a period of not exceeding three months. This is obviously intended to cover the case which is not unusual of the dissolution of the Vidhan Sabha some times prior to the completion of its full term for an impending general election. The use of the specific words 'for a full term' obviates its applicability to a case where a member has served not a full term of the legislative assembly but small periods of time in more than one term. This is equally manifest by the Statements of Objects and Reasons appended to the amending Bill of 1979:—

"In order to maintain the dignity and respect of the ex-members of the Punjab Legislative Assembly, the Punjab Legislative Council and the Legislative Assembly of the erstwhile State of Patiala and East Punjab States Union and also to save them from the financial hardship the Punjab State Legislature Members (Pension and Medical Facilities Regulation) Act, 1977, was enacted. But that Act, did not cover the cases of those members who had served for the full term of the Legislative Assembly but that term fell short of five years by not more than three

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months. It is also necessary to make a provision for such members as well.....”

(3) Now viewed in the aforesaid context of the legislative history, it appears to be plain that as originally enacted the statute had the clear intent of prescribing a minimum period of five years for eligibility for pension. It is equally not in dispute that the full term of a Legislative Assembly visualised by the Act is fixed by the Constitution to be five years. The working of the Act, however, brought to the fore the fact that Legislative Assemblies are sometimes dissolved a little before the period of five years for the purposes of the next general elections. The amendment of 1979 was, therefore, necessitated primarily for the cases of those members who had virtually served for the full term of five years of the Legislative Assembly but were marginally short thereof by three months. Sub-section (1A) of section 3 of the Act was, therefore, directed to this end alone and has little relevance or application to the cases of members who may have served in the Legislative Assembly in two terms or more.

In view of the above, the writ petitioner cannot derive any advantage from sub-section (1A) of section 3 of the Act. The writ petition is, therefore, wholly without merit and has to be dismissed *in limine*. There will be no order as to costs.

N.K.S.

Before G. C. Mital and I. S. Tiwana, JJ.)

SUNDER SINGH AND OTHERS,—Petitioners.

*versus*

STATE OF HARYANA AND OTHERS,—Respondents.

Civil Writ Petition No. 3284 of 1983.

September 21, 1983.

*Punjab Gram Panchayat Act (IV of 1953) as applicable to the State of Haryana—Sections 5 and 13-O—Haryana Gram Panchayat Election Rules, 1971—Rules 6 to 13, 18, 21, 29, 35 and 43—Constitution of India 1950—Article 226—Elections to Gram Panchayat—Section 5 read with the Rules— Whether envisages reservation of*