

Sr.No.424
IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

1. CWP-18331-1997(O&M)
Prem ChandPetitioner

vs.

State of Haryana and othersRespondents

2. CWP-2546-2003(O&M)
Gurbachan LalPetitioner

vs.

State of Haryana and othersRespondents

3. CWP-2557-1998(O&M)

Ranbir SinghPetitioner

vs.

State of Haryana and othersRespondent

Date of Decision: **02.12.2015**

Coram: Hon'ble Mr. Justice Mahesh Grover

Present: Mr. Sumeet Sheokand, Advocate
for the petitioner in CWP-18331-1997.
Mr. Sanjeev Gupta, Advocate
for the petitioners in CWP-2557-1998 and CWP-2546-2003.
Mr.Ashok S. Chaudhary, Addl. A.G. Haryana.
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Mahesh Grover, J

By this order I shall dispose of all the above mentioned writ petitions as the facts are common in all the cases.

The short point which the learned counsel for the petitioners urge before this Court is regarding their claim for regularization w.e.f 1996 and not from the year 1997-98 which has been granted to them.

basis till they got regularization as per the policy of 1996 which was granted but the benefit of regularization were given to the petitioners w.e.f 1997 and 98, the individual particulars of all the petitioners are given below:-

<i>Name</i>	<i>Date of appointment</i>	<i>Designation</i>	<i>Regularization</i>
<i>Prem Chand</i>	<i>01.07.1989</i>	<i>Pump Operator-II</i>	<i>Regularised on 22.04.1997 in Group D which is class IV post with less scale</i>
<i>Ranbir Singh</i>	<i>1.10.1991</i>	<i>Pump Operator-II</i>	<i>Vide notification dated 07.03.1996 which was lateron modified on 18.03.96. Petitioner was sent for medical examination but vide letter dated 1.12.1996 held that he cannot be regularised as Pump Operator II as he does not fulfil the qualification for the said post on 22.04.1997 he was regularized in Group D.</i>
<i>Gurbachan Lal</i>	<i>1.12.1973</i>	<i>Petrol Man then promoted as Keyman in 1976 and then promoted as Pump Operator on 01.08.1978</i>	<i>His services were regularised on 15.11.1983</i>

It is pertinent to mention here that the services of the petitioners have been regularized as Group D employees even through it is the admitted case of the parties that they were working as Water Pump Operators Category-II. The conceded position that emerges from the aforesaid facts is that the petitioners were working as Water Pump Operators Category-II and if that be so then they cannot be denied the benefit of regularization on the very post on which they have worked on the ground that they do not possess the eligibility condition particularly when the nature of work taken from them is that of a Water Pump Operator.

This Court has already observed in C. W. P. No. 18974 of 1998 – Abdul Kayyum and another vs. State of Haryana and others, decided on 26.09.2000, as follows :-

“The primary reason for denial of the relief of regularisation as explained by the respondents is that though the petitioners were Matriculates but they did not possess the technical qualification of ITI certificate and, therefore, they could not be considered for regularisation on class-III post of Water Pump Operator. Another reason for declining the relief was that the petitioners were recruited as daily rated employees in the category of skilled workers on muster rolls and not as daily rated class-III employees as is being claimed by them. On the face of the above, the plea taken by the respondents is against the requisite qualification prescribed for the post of Water Pump Operator Grade-II as indicated in Annexure R-1. It is further indicated in Annexure R-1 that in the absence of ITI certificate the requirement is only of being a literate with a minimum of five years experience. Admittedly, the petitioners are Matriculates and they had been working on the post of WPO-II/APO continuously for five years on daily wages on the date when their cases for regularisation were considered. Regularisation of services of an employee by itself implies the regularisation of services he has rendered already as daily wager and it is only to be regularised in the case of the petitioners also as they were working on daily wages as WPO-II/APO. At the time of regularisation, they cannot be denied the benefit of regularisation on the same post on the ground that it will fall in class-III post. The petitioners have been regularised on the post of Pump Attendants which is a class-IV post and this on the face of it is contrary to the spirit of the notifications issued by the State Government for regularisation of services of the daily rated employees. A similar controversy has already been settled by this Court in Civil Writ Petition No. 19708 of 1998 (Tej Parkash Gaur and another Vs State of Haryana and others) and Civil Writ Petition No. 19709 of 1998 (Harish Chander Versus State of Haryana and others), both decided on 14.09.1998. In both these petitions, the petitioners were inducted into the service of the respondent-Department against the post of Water Pump

Operator Grade-II, which was earlier designated as Assistant Pump Operator, on daily wage basis. However, their services were regularised against the post of Pump Attendants, which is a class-IV post. They challenged this action by means of aforesaid writ petitions. The writ petitions were allowed and the respondents were directed to regularise the petitioners in class-III service against the post of WPOII/APO in terms of the instructions as are C. W. P. Nos. 15820 of 1998 & 5926 of 2013 7 contained in Annexures P-3 and P-4 with this petition. It was observed in the aforesaid two decisions that the conclusion arrived at therein was supported by a decision of the apex Court in Civil Appeal Nos.1579-80 of 1998, titled as Amrit Lal versus State of Haryana and others, decided on 18.3.1998 and from the decisions of this Court in CWP No. 15051 of 1995, titled as Puran Chand and others Versus State of Haryana and others, decided on 13.8.1996.

It goes without saying that the entries contained in the service books of the petitioners which were duly verified by the concerned authorities manifestly show that the petitioners were continuously working as WPO-II/APO and discharging their duties as such to the satisfaction of the authorities. There is thus, no reason why they should be downgraded to Class-IV posts at the time of their regularisation.

For the reasons aforesaid, these writ petitions are allowed. The respondents are directed to regularise the services of the petitioners on class-III post of Water Pump Operator Grade-II/Assistant Pump Operator in terms of the instructions dated 7.3.1996 and 18.3.1996. The petitioners shall also be entitled to all consequential benefits that may flow on their regularisation as directed above. These directions shall be complied with within a period of three months from the date of receipt of a copy of this order.”

Similarly, in C.W.P. No. 19708 of 1998 – Tej Parkash Gaur and

another vs. State of Haryana and others, decided on 14.09.1999 which is also a

judgment rendered by a Division Bench of this Court, it has been held as under :-

“We find no justification in the action of the authorities in regularising the petitioners against the post of Pump Attendants. The claim of the petitioners for regularisation was liable to be considered against the post on which they had been engaged by the authorities. It is not disputed that the petitioners had actually been engaged to discharge duties as Water Pump Operator Grade-II/Assistant Pump Operator. They have duly discharged duties as such with effect from August 1989 and May 1990, respectively. They have also been paid emoluments for discharging duties against the aforesaid post. It is, therefore, wholly unreasonable to consider the claim of the petitioners for regularisation against a post inferior to the post against which they have been discharging their duties. The instructions dated 7.3.1996 and 18.3.1996 lay down terms and conditions for regularising services on Class III and Class IV posts. The petitioners have been discharging their duties against class III post of Water Pump Operator. They fulfill all terms and conditions stipulated in the aforesaid instructions. They also possess the essential qualifications stipulated for appointment to the post in question. In the aforesaid view of the matter, the petitioners are entitled to regularisation against the post of Water Pump Operator Grade II/Assistant Water Pump Operator in class III service.

*The conclusion drawn hereinabove, finds support from the decision of the Apex Court in **Civil Appeal Nos.1579-80 of 1998, titled as Amrit Lal versus State of Haryana and others decided on 18.3.1998**, and from the decision of this Court in **CWP No. 15051 of 1995 titled as Puran Chand and others Vs State of Haryana and others, decided on 13.8.1996**.*

For the reasons recorded above, this petition is allowed. The respondents are directed to regularise the petitioners in class III service against the post of Water Pump Operator Grade II/Assistant Pump Operator in terms of the

instructions dated 7.3.1996 and 18.3.1996. The aforesaid direction shall be complied with within a period of one month from the date of receipt of a copy of this judgment by the respondents. The petitioners will also be entitled to all consequential benefits in the nature of pay and allowances etc. which may accrue to them as a consequence of their regularisation.”

The said observation has been followed in a recent judgment rendered in **CWP-15820-1998, titled Sanjeev Sharma and others v. State of Haryana and others**, decided on **17.11.2015**.

Finding the controversy to be squarely covered with the ratio of the aforesaid decision, I deem it appropriate to dispose of all the writ petitions in the same terms and held the petitioners to be entitled to regularization on the post of Water Pump Operators w.e.f the date of their entitlement.

02.12.2015
mamta

(MAHESH GROVER)
JUDGE