

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

CWP No. 16296 of 2004

DATE OF DECISION : 26.08.02015

Baldev Singh

.... PETITIONER

Versus

State of Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Mahavir Sandhu, Advocate,
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

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SATISH KUMAR MITTAL, J. (Oral)

On 01.03.1996, the petitioner was engaged as Tractor Driver by respondent No.5 on daily wage basis. He was seeking regularisation on the basis of instructions dated 01.10.2003 (Annexure P-1) issued by the State Government on completion of more than 3 years of service on 30.09.2003. Vide instructions dated 10.02.2004 (Annexure P-2), the aforesaid instructions were amended and Clause D (8) was inserted, which prescribes that only those employees shall be regularised who had been engaged on work charge basis prior to 31.01.1996. Since the petitioner was engaged on 01.03.1996, i.e. after 31.01.1996, his services were not regularised, therefore, he filed the instant petition seeking quashing of Clause D (8) of

the instructions dated 10.02.2004 (Annexure P-2), and for directing the respondents to consider his claim for regularisation in terms of the instructions dated 01.10.2003 (Annexure P-1).

Today, when this case was taken up for regular hearing, learned counsel for the petitioner pointed out that in a similar petition (CWP No. 9708 of 2004, titled as Ajit Singh Versus State of Haryana and others), which was decided on 04.02.2015, Clause D (8) of the instructions dated 10.02.2004 (Annexure P-2) has been struck down being illegal and arbitrary, while observing as under :-

“Vide notification dated 01.10.2003, services of all daily wagers, who had put in three years of service as on 30.09.2003, were entitled to be regularized. Through the impugned notification dated 10.02.2004, the amendment sought to be introduced to the earlier notification dated 01.10.2003, was that services of only those daily wagers would be regularized, who have been engaged before 31.01.1996. We find the introduction of date 31.01.1996 through the impugned amendment dated 10.02.2004 to be unreasonable and arbitrary because if such an amendment is to be allowed, then the result is that a daily wager, who puts in three years of service from 30.01.1996, would be entitled to regularization of his service, whereas the services of the person like the petitioner, who would have put in over five years of service i.e from August 1998 till 30.09.2003, would not be regularized.”

Learned State counsel does not dispute this position. Thus, in view of the aforesaid decision, we dispose of this petition with a direction to

the respondents to consider the claim of the petitioner for regularisation in accordance with the instructions dated 01.10.2003 (Annexure P-1), after hearing learned counsel for the petitioner, by passing a speaking order, within a period of five months from the date of receipt of a certified copy of this order.

**(SATISH KUMAR MITTAL)
JUDGE**

August 26, 2015
ndj

**(MAHAVIR S. CHAUHAN)
JUDGE**