

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.10433 of 2012

Date of Decision: July 30, 2015

Hanuman

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.R.S.Sangwan, Advocate,
for the petitioner.

Dr.Sushil Gautam, DAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The petitioner has knocked the door of this Court for seeking regularisation of his services on the premise that the Labour Court, vide award dated 10.2.2004 (Annexure P-4), while ordering reinstatement had also granted benefit of continuity of service.

Mr.R.S.Sangwan, learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed as Beldar and in pursuance to the award, he had joined the department on 17.3.2004. It has further been submitted that the policy dated 1.10.2003 was in vogue at that time and since the petitioner has been granted the benefit of continuity of services, the respondents ought to have regularised his services. The services of the similarly situated persons, i.e., respondent Nos.5 to 7, who

were also appointed with the petitioners, have been regularised in the year 1987 to 1991. He also submits that the case of the petitioner is covered by the policy dated 1.10.2003 (Annexure P-3), wherein it has been mentioned that all contract/adhoc employees, who have completed three years of service on 30.9.2003, are entitled to regularisation.

Dr.Sushil Gautam, learned Deputy Advocate General, Haryana appearing on behalf of the State submits that the case of the petitioner would be covered by the 2011 policy, wherein it has been clearly mentioned that the services of only those persons would be regularised, who had not gone to the Court and, therefore, the services of the petitioner were not regularised. He further submits that the private respondents were continuously working without any break and, therefore, their services have been regularised and, thus, the petitioner cannot claim parity with such persons.

Hon'ble Supreme Court in paragraph 34 of the judgment rendered in **Hari Nandan Prasad and another Versus Employer I/R to Mangmt. of FCI and another**, 2014(3) SLR 262 laid down that where the similarly situated workmen have been regularised by the employer itself under some scheme or otherwise and the workmen in question, who had approached the Industrial/Labour Court, are at par with them, direction of regularisation in such cases may be legally justified, otherwise, non-regularisation of the left over workers itself would amount to invidious discrimination qua them and, thus, it would be violative of Article 14 of the Constitution of India.

Since in the present case, the services of the private

respondents, who were also appointed with the petitioner, have been regularised in the year 1987 to 1991 and the petitioner, owing to the fact that his services were terminated, was compelled to raise his grievance before the Labour Court and his reference ultimately came to be decided in his favour in the year 2004, whereby the benefit of continuity of service has been granted, the petitioner is also entitled to regularisation as it was discrimination amongst the similarly situated persons.

The contention that 2011 policy would be applicable in the case of the petitioner has not been able to cut the ice because the cause of action for granting regularisation in respect of the case of the petitioner arose in the year 2004 itself when the petitioner submitted his joining report. The respondents did not take any steps for regularising the services of the petitioner, which compelled him to send a demand notice, though in the year 2012. The claim of the petitioner for regularisation, in my view, would be recurring cause of action and, therefore, the respondents cannot take the benefit of 2011 policy in denying the benefit to the petitioner.

Accordingly, the writ petition is allowed. The petitioner is held entitled to the benefit of regularisation from the date his juniors have been regularised. He is further held entitled to all consequential benefits, if any. The exercise of regularising the services of the petitioner shall be done within a period of three months from the date of receipt of certified copy of the order.

July 30, 2015
ramesh

(AMIT RAWAL)
JUDGE