

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

CWP No.1058 of 2012

Date of Decision:13/08/2015

Randhir Singh

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. R.N. Lohan, Advocate for the petitioner.

Mr. Harish Rathee, Sr. D.A.G. Haryana.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest?

DEEPAK SIBAL, J. (Oral)

Through the present petition, the petitioner seeks regularization of his services as conductor with effect from the date when the services of his juniors have been regularized.

After hearing counsel for the parties and perusing the record the facts that emerge are that the petitioner's name was sponsored through the employment exchange for appointment as a conductor with the respondent-department. After going through the prescribed selection process, the petitioner was selected. The petitioner figured at serial no.1 in the select list. In pursuance to such selection, the petitioner joined the services of the respondent-department as a conductor on 21.8.1979. Alongwith the petitioner, candidates at serial Nos.2, 3 and 4 in the select list namely Ram Sawrup son of Mohar Singh, Raj Kumar son of Jitu Ram and Amar Singh son of Phula Ram also joined but before the others on the select list could be offered appointment, a strike of the employees of Haryana Roadways took place. Some of the candidates who figured from serial no.5 onwards in the select list joined the services of the respondent-department during the strike

period. One of them was the candidate at serial No.11 namely Raj Kumar son of Dalip Singh, who joined the services of the respondent-department on 15.10.1979.

As noticed above, the petitioner joined his services as a conductor with the respondent-department on 21.8.1979. On 10.2.1994, he was absorbed/adjusted in the cadre of clerks.

Vide order dated 20.7.2010, candidates who were lower in the select list, in order of merit, than the petitioner and had even joined later than him as a conductor during the strike period, were regularized with effect from the date of their initial appointment. Illustratively, the services of Raj Kumar son of Dalip Singh were made regular as a conductor with effect from the initial date of appointment i.e. 15.10.1979. However, the petitioner who had joined earlier to him and was placed higher to him in the select list, through order dated 8.7.2010 was ordered to be made regular as a conductor only with effect from 15.9.1982.

One Raj Kumar son of Jitu Ram who figured at serial no.3 in the above referred select list had also joined as a conductor alongwith the petitioner on 21.8.1979. His services, like the petitioner were also ordered to be regularized with effect from 16.9.1982 and not from the initial date of his appointment. Seeking regularization of his services from the date the services of Raj Kumar son of Dalip Singh who was lower in merit in the select list and had joined later than him, he approached this Court through CWP No.20699 of 2011; Raj Kumar v. State of Haryana and others. This writ petition was allowed through order dated 24.2.2014 by holding as under:

“The only ground now which has been pressed into service for justifying the regularisation of the services of respondent No.4 from

the date of his joining duty i.e. 15.10.1979 is that he had joined during the period of strike. The reason for denying the claim of the petitioner for seniority from the date his junior was appointed even as per the seniority list of the respondents till the year 2009 even though he had joined prior to respondent No.4 is that the petitioner did not join service during the strike period. This reasoning, as has been adopted by the official respondents, cannot be accepted merely on the ground that a decision was taken by the respondents, entitling the employees, who were appointed during the strike period, for regularization of their services from the date of their joining. Although a policy may confer some right upon a particular category of employees but the same cannot be unreasonable, inequitable and violative of Articles 14 and 16 of the Constitution of India, which confers a right of equality of consideration for appointment and conferring benefit to the similarly situated Government employees. There can be no doubt that a policy decision can be taken by the State with regard to regularization of the services of a particular category of employees but the said policy cannot be in derogation to the rights and benefits of a senior, who has come into service prior to the others.

Admittedly, the petitioner has been appointed through Employment Exchange as respondent No.4 and that too through a Committee, which was duly constituted by the respondents. The only distinction, which is drawn and sought to be carved out, is that Selection Committees/Screening Committees for the two selections were different. That cannot be a ground to discriminate between one set of employees and the others, especially when it is not the stand of the respondents that the petitioner did not fulfill the requisite qualifications for appointment to the post of Conductor and was appointed prior to respondent No.4. An admitted fact is also that the petitioner and respondent No.4 were selected on the basis of interview held on 11.6.1979, where the name of the petitioner figured at Sr.No.3 and that of respondent No.4 at Sr.No.11, which fact is apparent from the list of selected candidates for the post of Conductor, Annexure P-1. Merely because respondent No.4 did not join in pursuance of the said selection and has been subsequently appointed during the strike period cannot confer him a right, which would be over and above a candidate who has been selected in the

earlier process of selection on higher merit and has also joined in pursuance thereof prior to the employee selected in a subsequent selection”

I have gone through the above quoted judgment and find that the case of the petitioner is fully covered by the same.

In view of the above, impugned order dated 8.7.2010 (Annexure P-3) is ordered to be quashed with a direction to the respondents to consider the claim for regularization of the services of the petitioner from the date his junior namely Raj Kumar son of Dalip Singh were regularized i.e. 15.10.1979 with all consequential benefits. The directions be complied with within a period of two months from the date of receipt of a certified copy of this order.

The writ petition stands allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

13.08.2015
rajeev