

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 12458 of 2013
Date of Decision: - 12.8.2015

Dogar Ram

.....Petitioner

vs.

State of Punjab & ors

.....Respondents

CORAM: - HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: - Mr. G.S.Bal, Sr. Advocate with
Ms. Manju Sharma, Advocate for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab

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Rajiv Narain Raina, J (Oral)

Undisputedly, the petitioner has worked from June, 1996 till 1997 as a Driver but that period has not been counted by the Department towards six months daily wage/work charge service towards 10 years of service rendered.

The defence taken by the respondents in para 2 of the written statement filed on merits is that for the aforesaid period the petitioner worked on "cash memo basis" which cannot be taken into consideration as daily wage/work charge service.

Learned counsel for the petitioner points out that the State has not stated in its written statement as to what is meant by the term "cash memo basis" and therefore, the defence is cryptic and the same should be not used against the petitioner depriving him of six months service towards 10 years required under the policy of regularization floated by the Punjab Government in the year 2006, pursuant to the directions issued by the Supreme Court in Secretary, State of Karnataka versus

Uma Devi (2006) 4 SCC 1.

The Scheme of regularization dated 15.12.2006 was followed by additional supplementary policy dated 18.3.2011. To say a few words about this cash memo basis arrangements, I should think that it is no more than cash payment for work done which may have been paid on a cash memo. But that does not mean that the work done shall not be treated as daily wage service or a work charge service as is alleged in the written statement. There are no qualifying words to explain that work done on cash memo basis would not mean work done on daily wages or on work charge basis. It is also not the case of the respondents even by taking into consideration six months work on cash memo basis that there was no continuity of service between "cash memo basis" service and daily wage/work charge service. Therefore, the defence is not found unsustainable.

The writ petition is allowed. Respondents are directed to regularize the services of the petitioner in terms of the policy dated 15.12.2006 followed by 18.3.2011 keeping in view the principles notified as above. Let the exercise be completed within a period of three months from the date of receipt of the certified copy of this order. Petitioner would be entitled to arrears of pay and allowances on the post on which he is regularized but monetary benefits are restricted to 38 months prior to filing of this writ petition.

Disposed of as above.

(RAJIV NARAIN RAINA)
JUDGE

12.8.2015/preeti