

Sr.No.238

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP-21631-2011 (O&M)

Decided on: 01.09.2015

AnilPetitioner

vs.

State of Haryana and othersRespondents

Coram: Hon'ble Mr. Justice Mahesh Grover

Present: Mr. Harsh Bunger, Advocate for the petitioner.

Mr. G.S.Wasu, Addl. AG, Haryana

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Mahesh Grover, J

The petitioner prays for regularization of his services in terms of 1996 policy of regularization. He was appointed as Mali in May 1991. On 31.01.1996 his services were abruptly terminated leading to a demand notice being served by the petitioner on 28.10.1996. He claimed a reference and the Labour Court decided the matter vide award dated 26.03.2002 in the following terms:

“As a result as per my issue wise findings above in detail the reference is accepted holding that the workman is entitled to be reinstated on his previous post with continuity of service and 70% back wages from the date of demand notice 28.10.1997 onwards. The award is hereby passed in favour of the workman. The reference is answered and returned accordingly.”

The petitioner filed a writ petition before this Court claiming regularization.

This Court vide order dated 18.09.2004 directed the respondents to consider the case of the petitioner for regularization and granted status quo regarding

services to be maintained till then. The respondents passed an order Annexure P4 granting the benefit of regularization to the petitioner w.e.f 01.10.2003. The petitioner claims that he was entitled to be regularized in terms of the 1996 policy which envisaged for grant of regularization to all incumbents who had completed three years of service upto 31.01.1996.

It is pertinent to mention here that the petitioner filed another Writ Petition bearing No. 17629 of 2009 praying for this benefit which was disposed of with a direction to the respondents to take a final decision by passing a speaking order on the representation preferred by the petitioner.

Annexure P6 is a consequence of re-consideration viz the case of the petitioner and denying him regularization in terms of the policy of 1996.

A perusal of the impugned order indicate that benefit in terms of 1996 policy have been declined to the petitioner on the ground that he had not completed three years of service on 31.01.1996 in view of the details given to the petitioner. The policy envisages that a person ought to have worked for a minimum 240 days in each years and the break in service in any year should not be more than one month at a time. As per the impugned orders the following is the break up of service rendered by the petitioner prior to 31.01.1997

“As per detail given above, Smt. Saroj was not on work from 3/91 to 6/91, 8/91 to 1/92, 4/92 to 8/92, 10/92, 12/92 to 3/93, 6/93, 10/93 to 3/94, 5/94 to 8/94 and 10/94 to 1/96. As per policy of regularization dated 07.03.1996 and 18.03.1996, the casual and daily rated employees who have completed 3 years service on 31.01.1996 and were in service on 31.01.1996, shall be regularized provided they have worked for a minimum

period of 240 days in each year and the break in service in any year is not more than one month at a time. Smt. Saroj was not on work from 3/91 to 6/91, 8/91 to 1/92, 4/92 to 8/92, 10/92, 12/92 to 3/93, 6/93, 10/93 to 3/94, 5/94 to 8/94 and 10/94 to 1/96. The petitioner was also not on work on 31.01.1996. Hence, the petitioner does not fulfill conditions of regularization. Therefore, the petitioner is not entitled for regularization from 01.02.1996.”

This fact has not been controverted by the petitioner and if that be so then the reasoning of the respondents in declining regularization in terms of 1996 policy cannot be faulted. Since the petitioner was concededly not covered under the policy, this benefit being the only prayer made cannot be granted and finding that the action of the respondents is justified in declining regularization to the petitioner in terms of the 1996 policy, the present petition is held to be without merit and is hereby dismissed.

01.09.2015**mamta****(MAHESH GROVER)****JUDGE**