

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 215

Case No. : C. W. P.No. 24096 of 2012

Date of Decision : April 21, 2015

Rattan Singh and others Petitioners

Vs.

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Ajay Mahajan, Advocate
for the petitioners.

Mr. I. S. Sidhu, Advocate
for respondents no. 3 and 4.

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DEEPAK SIBAL, J. :

The petitioners, who are three in number, were appointed as Chowkidars on daily wage basis in the years 1981 to 1982. On the creation of regular posts, their services were regularized as Chowkidars w.e.f. 08.07.1992, 29.06.1992 and 09.07.1992 respectively. Thereafter, the seniority list of all Class IV employees including the posts of Chowkidars was finalized on 15.03.2005. On the basis of such seniority, the petitioners

were promoted to the post of salesman on 25.02.2009 – the posts on which they still serve the respondent – Punjab State Cooperative Supply and Marketing and Federation Ltd. (hereinafter referred to as – Markfed).

Through the present petition, the petitioners pray that instead of being regularized as Chowkidars w.e.f. 08.07.1992, 29.06.1992 and 09.07.1992 respectively, their services as Chowkidars should have been regularized w.e.f. 01.01.1986. The petitioners have based their claim while alleging discrimination as they say that in the case of a similarly situated person namely Balwinder Singh, the benefit of regularization of his services has been granted w.e.f. 01.01.1986.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

The services of the petitioners were regularized as Chowkidars w.e.f. 08.07.1992, 29.06.1992 and 09.07.1992 respectively. These orders were passed in the year 1992. The issue with regard to seeking of regularization from an earlier date as Chowkidar w.e.f. 01.01.1986, as claimed by the petitioners through the present writ petition, should have been raised by them in the year 1992 itself. Admittedly, the same was not done. Further, the seniority list of all Class IV employees including Chowkidars was finalized on 15.03.2005. At that time also, the petitioners raised no objection. Thereafter, on 25.02.2009, all the petitioners were promoted to the posts of salesman. At that time also, this issue was not raked up by them. The issue with regard to claim of regularization w.e.f.

01.01.1986 instead of their respective dates of regularization as Chowkidars was raised by them for the first time in the year 2011 i.e. after a delay of about 19 years from the date of regularization of their services and about 06 years from the date of finalization of their seniority. No justifiable explanation has been given for the above delay on the part of the petitioners in the present writ petition.

Even otherwise, the petitioners cannot be granted regularization of their services as Chowkidars w.e.f. 01.01.1986, for the simple reason that the posts, on which their services were regularized, were only created vide Memo dated 28.09.1993. In the absence of any sanctioned post w.e.f. 01.01.1986, no relief, as prayed for by the petitioners, can be granted.

So far as the case of Balwinder Singh is concerned, this is the un rebutted stand of the respondents that Balwinder Singh was working as a Lab Attendant and not as a Chowkidar and that his services had been regularized w.e.f. 01.01.1986 against a vacant sanctioned post, which was available as on the date when Balwinder Singh had been granted the benefit of regularization of his services.

In view of the above, the present writ petition is dismissed both on the ground of delay as well as on merits.

(DEEPAK SIBAL)
JUDGE

April 21, 2015
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