

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

CWP No.25963 of 2012 (O&M)

Date of decision: September 17, 2015

Satbir Singh

...Petitioner

Versus

Haryana Seeds Development Corporation
Limited and another

...Respondents

Coram: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Vikram Singh and Mr.N.S. Chaudhary, Advocates
for the petitioner.

Mr.Suresh Ahlawat, Advocate for the
respondents – Corporation.

HARINDER SINGH SIDHU, J.

Satbir Singh – petitioner by filing this petition has sought directions to the respondent –Haryana Seeds Development Corporation Limited to consider the claim for regularisation of his services w.e.f. the date his juniors were regularised and also to award the consequential benefits along with interest.

The factual background of the case is that on 25.9.1986, the petitioner joined the respondent – Corporation as Mali on daily wages basis. However, his services were terminated on 4.10.1988, which action of the respondent– Corporation was challenged by him by raising an Industrial Dispute, which was decided by the Labour Court-cum-Industrial Tribunal, Hisar on 29.10.1980 (Annexure P-1).

The termination of the services of the petitioner was found to be neither in order nor justified and he was held entitled for reinstatement with continuity and all other consequential service benefits including full back-wages from 15.2.1993 till reinstatement. The respondent – Corporation challenged the Award of the Labour Court by filing CWP No.9462 of 2000, which was dismissed vide order dated 25.7.2000 (Annexure P-2). The Special Leave Petition filed by the respondents also met with the same fate vide judgment dated 16.9.2008 (Annexure P-3).

The petitioner was allowed to join the respondent-Corporation. His grievance is that since he has been reinstated with continuity of service as per the Award of the Labour Court, he is entitled to be given the benefit of regularisation, as granted to the persons, junior to him, vide order dated 6.10.1995 (Annexure P-5).

In the written statement filed on behalf of the respondent – Corporation, the decision of the Hon'ble Supreme Court in **Secretary, State of Karnataka and others vs. Umadevi and others, (2006) 4 SCC 1** has been relied upon. Though, it is admitted that persons junior to the petitioner had been regularised, but it is asserted that after the decision in ***Umadevi's case*** (supra), the policies of regularisation of services of adhoc/daily wager/contract workers, etc. were withdrawn. It is also stated that when the persons junior to the petitioner were regularised, the petitioner was not in the service of the Corporation. Moreover, they were working on the posts of Helper, whereas, the petitioner is working on the post of

Mali.

I have heard learned counsel for the parties.

Learned counsel for the petitioner has argued that since the petitioner was awarded reinstatement with continuity of service, he would stand at par with his counterparts, who continued in service without any obstacle or any legal battle. During the period when the petitioner was engaged in litigation, various policies were framed by the State of Haryana and adopted by the respondent – Corporation for regularisation of its employees working on adhoc/daily wager/contract workers, etc., benefit of which was granted to all those persons who were in service. It is contended that the petitioner is entitled to the same relief in view of order for reinstatement with continuity of service. It is also argued that none of the policies of regularisation was floated for a particular post e.g. Helper, etc. rather, the same were in respect of all employees working on adhoc/daily wager/contract basis.

A similar issue came before this Court in a bunch of 19 petitions, including **CWP No.10017 of 2011 titled “*Khajjan Singh and others vs. State of Haryana and others*”** (decided on 28.5.2014), wherein, this Court after taking into consideration various decisions of the Hon'ble Supreme Court including ***Umadevi's case*** (supra), observed that where similarly situated workmen have been regularised under some scheme, the same benefit cannot be denied to such employees who have got an order of reinstatement with continuity from the Courts.

In this context, it was observed as under:-

“...The rule of law is clearly against man's inhumanity to man. This kind of deprivation is in contravention of the natural law of equality among citizens who are or have become equally placed in all respects of basic rights possessed by both of them as human beings even if there were no written constitution or statutory law protecting workers against unfair discrimination and unfair labour practice inter se of those who deserve equality of treatment with their counterparts obtained through the tardy process of Labour Court trial resulting in favourable awards by the deeming fiction of law, even then the Court must step in to vanquish subjugation of the spirit. No person aggrieved should be turned away thinking the Court failed in coming to aid by restoring the unfair imbalance created by the administrator.

73. On the conspectus of the above facts, law and the thread of judgments read together, and for the various reasons stated interconnecting the judicial decisions, the rights of the petitioners for ante-dated regularization of services are declared in their favour and against the State.

74. The writ petitions are allowed. The orders of the respondent State declining representations of the petitioners for regularization in this batch of cases are nullified and set aside. In cases where regularization has been granted with effect from 2003 they shall be ante-dated in terms of this judgment from the dates such petitioners were separated from their erstwhile juniors and fellow workers. Accordingly, the State of Haryana would pass fresh orders in terms of this judgment in each case after the period of limitation prescribed for calling in

question this order has expired.”

LPA No.1903 of 2014, State of Haryana and others v.

Jiyaji Sharma, filed against the decision in CWP No.23938 of 2013, which was one of the cases decided along with **Khazan Singh's case** (*supra*) was dismissed. The Division Bench observed as under:-

*"3. As we mentioned earlier the appellant was employed with effect from 19.08.1995. The termination of his services on 31.05.1996 were held to be illegal and he was reinstated in service . Thus, as on 31.09.2003, the respondent must be deemed to have been in service. Under the policy of 01.10.2003, the petitioner was entitled to have his services regularized. All other employees similarly situated whose services had not been terminated were in fact granted the benefit of regularisation under the policy of 01.10.2003. The termination of the respondent's services having been held to be illegal and having been set aside, he must also be deemed to have been in service on 01.10.2003 and entitled to the benefits of the policy on par with the others. The petitioner cannot be denied the benefits of the policy on par with the others similarly situated for no fault of his namely and on account of the appellants having issued an illegal order of termination. The Supreme Court in **Hari Nandan Prasad and another v. Employer I/R to Mangmt. of FCI and another**, held as follows:-*

"However, wherever it is found that similarly situated workmen are regularised by the employer itself under some scheme or otherwise and the workmen in question who

have approached Industrial/Labour Court are at par with them, direction of regularisation in such cases may be legally justified, otherwise, non-regularization of the left over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Article 14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality by upholding Article 14, rather than violating this constitutional provision".

4. *In the circumstances, the appeal is dismissed. We reiterate that the all other issues decided by the impugned judgment are kept open. The time to comply with the order of learned Single Judge is extended up to and including 28.02.2015. There shall however be no order as to costs."*

The aforesaid decision was followed in a number of cases including **CWP No.9873 of 2013 and connected matters** decided on 7.5.2015 (*Raj Kumar v. State of Haryana (P&H) 2015(4) S.C.T. 277*), **CWP No.16325 of 2012 and connected matter** decided on 8.5.2015 and **CWP No.15097 of 2013 and connected matters** decided on 14.5.2015.

Accordingly, this petition is allowed. The respondents are directed to regularise the services of the petitioner with effect from the date, his juniors were regularised vide order dated 6.10.1995 (Annexure P-5). The petitioner shall also be entitled to all consequential benefits.

September 17, 2015

Atul

**(HARINDER SINGH SIDHU)
JUDGE**