

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

DATE OF DECISION: MARCH 23, 2015

Mohinder Singh and others

.....Petitioners

VERSUS

The State of Punjab and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Manu K. Bhandari, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court, praying for quashing of the orders dated 13.09.2012 (Annexure P-21) and 04.08.2014 (Annexure P-22) passed by the Principal Secretary to Government of Punjab, Department of Cultural Affairs, rejecting their claim for regularization of their service, despite their being a proposal for regularizing them vide communication dated 24.05.2010 (Annexure P-4).

It is the contention of counsel for the petitioners that the petitioners were appointed on daily wage basis between the years 1978 to 1988. Forty three posts of Malies and Monuments Attendants were to be filled up as per the letter dated 02.05.1989.

Petitioners filed Civil Writ Petition No.17155 of 1989. The said writ petition was disposed of vide order dated 21.03.1990, calling upon the

Director, Cultural Affairs Archive and Museum Department, Chandigarh-respondent No.2 to consider the claim of the petitioners. Meanwhile, services of the petitioners were terminated in the year 1991. The services of the juniors of the petitioners were, however, regularized, leaving the petitioners out of service. They sought information under the Right to Information Act and on getting such information. Some other similarly placed persons moved a representation before the Department. The matter was considered by the Department and a proposal dated 24.05.2010 (Annexure P-4) was sent by the Director, Cultural Affairs Archive and Museum Department, Chandigarh to the Principal Secretary, Government of Punjab, Cultural Affairs Department. In the said proposal, names of the petitioners were duly mentioned. It was mentioned that the daily wagers, who could not be regularized, should be regularized in order to set right the irregularities whereby persons who were junior to the petitioners in the joint seniority list, stood regularized whereas the services of the petitioners have been terminated. The said proposal was in principle approved vide Memo dated 15.06.2010 (Annexure P-5) with a condition that complete justice should be done to the daily wage workers.

Thereafter a joint seniority list was prepared on 20.07.2010, wherefor objections were called for and finally the final seniority list was circulated vide order dated 28.12.2010 (Annexure P-7). Thereafter the claim of the petitioners was considered along with others but the same was rejected by the Principal Secretary, Punjab Government, Cultural Affairs Department vide order dated 13.09.2012 (Annexure P-21), which was passed in pursuance to the directions issued by this Court in Civil Writ Petition No.4937 of 2012 preferred by Gurdeep Singh (petitioner No.4) in the

present writ petition, wherein directions were issued to decide the legal notice dated 16.12.2011 (Annexure P-16) served by him upon the respondents. In the said order, it has been mentioned that since the year of their termination i.e. 1991, the petitioners are out of service and, therefore, regularization has proceeded qua the persons who were in service and further it has been said that the petitioners have remained out of job for the last 20 years and have never approached the Department for employment during this period. One of the persons whose services had been regularized, that order was cancelled vide this order on the basis of which the petitioners had claimed benefit of regularization.

Another justice demand notice was thereafter issued for recalling the speaking order dated 13.09.2012 (Annexure P-21) to the respondents on the basis of certain other information, which was received by the petitioners. On the basis of the said information, notice dated 24.01.2014 (Annexure P-21B) was processed and thereafter a speaking order dated 04.08.2014 (Annexure P-22) stands passed, where again after considering the claim of the petitioners, the same has been rejected on the same grounds because of delay on their part as no action has been taken by them since their termination except that they approached the respondents by way of legal notice, which was ordered to be decided by the Court, as has been referred to above. These orders have been challenged by the petitioners in the present writ petition.

Counsel for the petitioners contends that the orders passed by the respondents cannot be sustained as the same are violative of Article 14 of the Constitution of India as similarly placed employees whose services were dispensed with in the year 2006 stands regularized in the year 2014

whereas the claim of the petitioners has not been accepted. While granting the benefits to the other similarly placed employees in the year 2014, the seniority list of 1991 has been taken into consideration where the petitioners would be senior to many persons whose services have been regularized. He further contends that discriminatory treatment meted out to the petitioners, thus, cannot be accepted as they have been singled out for not granting the said benefit. He further contends that as per the notes of the Department certain relatives of the officials have been granted the benefit of regularization by dispensing with the services of other daily wage employees, including the petitioners, and therefore, they are entitled to the benefit.

These contentions, as have been projected by counsel for the petitioners, cannot be accepted.

Firstly, there is no discrimination as such qua the petitioners as none of the persons whose services were terminated in the year 1991, had approached the Department by the year 2010 nor anyone of them has been taken back in service or their services regularized. The discrimination, which has been projected by the petitioners' counsel is with reference to the employees whose services were terminated in the year 2006 and had been taken back in service in the year 2014. This speaks for itself as in the case of the petitioners, prior to approaching the Department, there was a lull for around 20 years whereas the position is not the same qua the employees whose services were terminated in the year 2006 and have not been granted the benefit of regularization.

That apart, the plea of counsel for the petitioners that services of some of the relatives of the officials have been regularized at the expense

of the petitioners also cannot be accepted as they should have, at the relevant time, approached the competent authority/Court to press such a plea. At this belated stage and that too after more than 20 years having been passed by, the plea, as has been projected by counsel for the petitioners, cannot be accepted.

The impugned orders, therefore, are fully justified and the petitioners have delayed their claim without any plausible explanation and, thus, no interference in exercise of writ jurisdiction is called for.

The writ petition, therefore, stands dismissed.

March 23, 2015
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(AUGUSTINE GEORGE MASIH)
JUDGE