

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

Civil Writ Petition No.5397 of 2015

Date of Decision: April 24, 2015

Narinder Pal Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Yesh Paal Malik, Advocate,
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

Written statement filed on behalf of respondent Nos.1 to 3 today in Court is taken on record. Copy thereof has been supplied to the counsel opposite.

The challenge in the present writ petition is to the communication dated 12.2.2015 (Annexure P-9), which has been communicated to the petitioner by the General Manager, Haryana State Transport, Sirsa-respondent No.3 in response to the legal notice dated 9.10.2014 (Annexure P-7).

The case of the petitioner is that, during the strike period, he was appointed as Helper on 13.12.1993, whereas Mohan Lal was appointed

as Helper on 14.12.1993. The petitioner has been granted appointment on the basis of the order dated 22.3.2010 passed by this Court in CWP No.4189 of 2009 with a condition that he would not be entitled to any back wages. Thereafter, the petitioner is stated to have approached this Court for regularisation of his services vide Civil Writ Petition No.25145 of 2012 and the said writ petition was disposed of on 19.5.2014. The said order reads as under:-

“Petitioner has approached this Court praying for directing the respondents to regularize the services of the petitioner.

Counsel for the respondents states that vide order dated 25.09.2013, the services of the petitioner have been regularized w.e.f. 06.08.2013 on the post of Helper rendering the writ petition infructuous.

Counsel for the petitioner submits that the petitioner is entitled to regularization of his services from the date the persons, who were lower in merit than the petitioner and have been appointed subsequent to him, have been regularized.

This assertion of the counsel for the petitioner cannot be accepted in the absence of any pleadings to that effect.

Counsel for the petitioner, faced with this situation, prays for liberty to approach the Court again for preponement of the date of his regularization, in case he gets information, according to which, the persons, who were lower in merit than the petitioner or were appointed subsequent to the petitioner on the post of Helper, have been regularized prior to him.

Prayer granted.

The writ petition is disposed of with liberty aforesaid.”

Thereafter, the petitioner has obtained the information under the Right to Information Act, i.e., Annexure P-8, from which it has transpired that the petitioner was appointed on 13.12.1993, whereas Mohan Lal was appointed on 14.12.1993. There is a categorical averment in the petition that the services of Mohan Lal were regularised on 1.10.2003, which has not been denied by the respondents. However, vide Annexure P-5 dated 28.10.2013, the services of the petitioner were regularised w.e.f. 19.2.2013. The petitioner sent a legal notice dated 9.10.2014 (Annexure P-7) and claimed his regularisation with effect from the date when his junior Mohan Lal was regularised as he was appointed a day later to the petitioner.

In response to the legal notice, the General Manager, Haryana Roadways, Sirsa, vide communication dated 12.2.2015 (Annexure P-9) rejected the claim of the petitioner on the premise that the petitioner was recruited on 19.12.1993, whereas the petitioner has been recruited on 13.12.1993. It is probably on account of this inadvertence, the case of the petitioner was rejected. Had the date of appointment of the petitioner was considered as 13.12.1993, perhaps the petitioner would have got the relief of regularisation of his services w.e.f. 1.10.2003.

It is admitted position that the petitioner was appointed on 13.12.1993.

In view of what has been observed above, the communication dated 12.2.2015 (Annexure P-9) is hereby quashed. The General Manager, Haryana Roadways, Sirsa-respondent No.3 is directed to decide the legal

notice dated 9.10.2014 (Annexure P-7) within a period of three months from the date of receipt of certified copy of this order in accordance with law keeping in view the fact that Mohan Lal, junior of the petitioner, who had been appointed on 14.12.1993 had been regularised w.e.f. 1.10.2003.

The decision of the General Manager, Haryana Roadways, Sirsa should be speaking and well reasoned.

In case respondent No.3 decides to grant the relief to the petitioner, the same may be granted within a further period of two months.

The writ petition is disposed of accordingly.

April 24, 2015
ramesh

(AMIT RAWAL)
JUDGE