

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No.18178 of 2013 in/and  
CWP No.12463 of 1999  
Date of Decision: 24.08.2016

Kuldip Singh

... Petitioner

Versus

The State of Haryana and another

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Manoj Bajaj, Advocate,  
for the applicant-petitioner.

Ms. Shruti Jain Goel, AAG, Haryana.

Mr. Arvind Singh, Advocate,  
for respondent No.2.

**RAJIV NARAIN RAINA, J.**

1. The petitioner is a straggler Gestetner Operator in the State Election Commission, Haryana working on 89 days basis since January 1996. His case for regularisation, the one in hand, remained pending while the case filed by twenty nine of his compatriots who had also approached this Court for the same relief in CWP No.6359 of 1998 titled *Sat Narain and others v. The State Election Commission, Haryana and others* was allowed on November 20, 2013 when the following order was passed in their favour:-

*“Mr.Patwalia, learned counsel for the petitioner submits that all 29 petitioners except the applicant-petitioner no.27 before this Court have had their services regularized by different orders passed by the Government*

*some in the year 2003 and some in the year 2009. The applicant-petitioner no.27 has been left out only for the reason that on the date when the first interim order was passed, he was, in view of the respondents, found to be not in service, and therefore, the interim order dated 7.5.1998 did not cover his case. On 11.4.2002, this Court in the present proceedings passed the order, operative part of which reads as follows:-*

*“Thus, it implies that the petitioner no.27/applicant was in service of respondent no.1 on 18.5.1998. Interim order dated 07.07.1998 will also cover petitioner no.27 i.e. Phool Singh. The respondents are directed to take petitioner no.27/applicant Phool Singh into service till the final disposal of this writ petition.”*

*Therefore, it does not lie in the mouth of the respondents to submit that regularization can be denied only on the ground that the petitioner was not in service on the date when the first interim order was passed. No other objection has been raised in the written statement filed by the State Election Commission, Haryana. In view of this factual position, the main case is taken on Board for final disposal.*

*In view of the second order passed by this Court, petitioner no.27 would have a right of consideration for regularization either from 2003 or from 2009, as the case may be, to bring him on parity with the remaining petitioners. Since the contest has been limited to petitioner no.27 in this application filed by Mr. Patwalia who has instructions only from petitioner no.27 and no plausible explanation has been given to rebut the facts which are matters of judicial record, the petitioner's right cannot be postponed so that he does not suffer further due to non-regularization of his services. If the remaining petitioners' services have been regularized unconditionally and have not been made subject to this writ petition, it is taken that they have no remaining grievance. This writ petition is,*

*therefore, allowed. A direction is issued to the respondents to regularize the services of petitioner no.27 forthwith from the date when his junior was regularized. In case the remaining petitioners have any grievance, they are at liberty to revive this petition.*

*With these observations, the writ petition is disposed of.”*

2. The Court is informed by Mr. Arvind Singh appearing for the Commission that the orders have been implemented. While that writ petition was decided, the present writ petition remained pending, as I said a straggler left behind. It is not disputed that the petitioner is similarly placed as Sat Narain and others who were employed on different posts but in similar fashion i.e. initially on 89 days basis but extended from time to time came to be regularized when their writ succeeded and, therefore, it is urged by Mr. Manoj Bajaj that the petitioner is entitled to the same relief. It may noted that the petitioner's past service record finds mention in Annex R-2/1 (placed with reply to CM No.18178 of 2013) where from it is revealed that from 1997 till 2008 he was issued minor punishments of censure, warning etc. on twenty occasions from time to time. The major punishment of withholding of four annual increments permanently inflicted on the petitioner vide disciplinary authority order dated February 27, 2013 was reduced in appeal preferred before the State Election Commissioner, Haryana to minor penalty of Censure. He was, though, issued a warning for the future that this would be treated as the last penalty but in future, no leniency shall be shown to him and he shall render himself for higher punishment including removal or dismissal if delinquency was repeated. A copy of the order was directed to be placed on the personal file and service

record of the petitioner and the remarks to this effect would also be recorded in the ACR for the relevant year. This was ordered on August 22, 2013 in statutory service appeal. In view of the ultimate warning given to the petitioner and on being subject to good conduct his past record stands virtually wiped out and condoned for the time being and cannot be read adversely against him by virtue of the decision of the State Election Commissioner, Haryana himself.

3. Therefore, the reformatory approach adopted is required to be maintained and the petitioner would have sufficient and substantial right of equality of treatment as fell to the share of Sat Narain and others. This right of parity before the law is fundamental in character and has to be zealously guarded and this Court has no doubt that the petitioner is entitled to the same relief as granted to Sat Narain and others in the aforesaid writ petition being similarly circumstanced. His service record after 2008 is not adverse. He appears to have held his ground thereafter. The approach of the State Election Commissioner, Haryana is appreciable in its reformatory vein full of justice and moderation. So is the caveat placed on future conduct to reign him in.

4. Consequently, the writ petition is allowed. The impugned order dated August 24, 1999 (Annex P-21) is set aside. The petitioner's service will be regularized from the date the junior was regularized in terms of the *Sat Narain* but with the rider that his future service will remain dependent on good behaviour to fulfill the mandate of the warning issued by the State Election Commissioner, Haryana wholesomely and the ameliorative dispensation handed down to him is honoured and time-tested.

5. However, while allowing this petition, liberty is granted to the State Election Commissioner, Haryana to bring any genuine grievance regarding the conduct of the petitioner in future at the workplace to the notice of the Court by an application presented in this disposed of matter for appropriate and further orders, including revival of the major penalty, if required or necessitated, which may entail consequences of de-regularisation in the special circumstances of the case which led to reduction in punishment from major to minor, since it cannot be gainsaid that major punishment if maintained might have deprived him of the precious right to regularisation of service by reason of adverse serviced record. While allowing this petition, suffice it to say, that this order will not be treated as a precedent as it is equity based and carries forward the philosophy of reform in the impugned order of reduction in quantum of punishment.

**(RAJIV NARAIN RAINA)  
JUDGE**

**24.08.2016**  
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| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |