

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15509 of 1999

Date of Decision: 23.09.2016

Inder Dev Yadav and others

... Petitioners

Versus

The State of Haryana and others

... Respondents

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

Present: None for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. Gurinder Singh, Advocate,
for Mr. S.S. Narula, Advocate,
for respondent No.2.

RAJIV NARAIN RAINA, J.

1. Despite notice none has appeared for the petitioners. Parity is claimed by the petitioners on the basis of an award passed by the Labour Court, Hisar in Ref. No.12 of 1996 titled *Sh. Raghubir Singh v. Executive Engineer, etc.* granting to the workman not only reinstatement upon declaration of illegal termination but directing appointment of the workman to the Class-III post of Water Pump Operator Grade-II and to regularize the services w.e.f. April 01, 1993. All this has been achieved by the award dated April 16, 1999. The workman got reinstatement, continuity of service with all consequential service benefits, full back wages and regularization on a public post even when the workman was a daily wage employee. The order was not challenged by the department and has attained finality. The petitioners claim that they should be given the same treatment as was given to Raghubir Singh who was initially appointed only on daily wage service

as a Mali-cum-Chowkidar/Beldar. The petitioners are also Malis-cum-Chowkidar who have been working since a long time and they have argued through their counsel that if they are not treated in the same manner as Raghubir Singh, there would be unfair discrimination and violation of Article 14 of the Constitution of India. It is well settled that judicial or quasi judicial orders do not furnish ground for discrimination and the equal treatment principles laid down in the Constitution. The State succumbed to the award which was *per se* illegal to the extent it ordered regularization of service on the post of Water Pump Operator-II, let alone from April 01, 1993 and this illegal part of the award can never furnish legally valid ground to hear the petitioners on a plea of hostile discrimination. The Labour Court is a Court of fact and clearly exceeded its jurisdiction in making the award to the extent of ordering regularization of service of the workman. However, nothing said in this order will affect Raghubir Singh since the order is final qua him and cannot be re-opened in the present proceedings, not being a party nor award of relief to him challenged by person aggrieved.

2. I find no merit in this petition seeking issuance of directions to the respondents to perpetuate an illegality. An order will not be issued by the Writ Court which may revive the operation of an award of the Labour Court in other cases. The Labour Court award is to be read in personam and not in rem. Neither have the petitioners come via the labour court.

3. There is another aspect pointed out by Ms. Goyal for the State that notwithstanding the above, the services of the petitioners were regularized on different dates ranging from January 01, 1987 to April 01,

1993 in Group D service. Even though the award may appear illegal to the extent of regularization but it is final and at the same time it regularizes Raghubir Singh on a Class-III post whereas the petitioners are in Class-IV and, therefore, there can be no comparison of their inter se seniority between them for the petitioners to claim equal treatment as against Raghubir Singh. They belong to separate cadres. The judicial accident caused in the Labour Court, Hisar is an aberration and will remain confined to that case alone and not to be read in other cases claiming similar relief. Therefore, the petitioners have no case to claim a common seniority with Raghubir Singh or that they should be declared senior to him merely because some of them had been appointed as daily wagers prior to Raghubir Singh who has left their fold. They cannot claim the benefit of the award in their favour. They also cannot claim seniority or regularization to a Group-C post to change their class on the basis of the award passed by the Labour Court, Hisar, for the reasons mentioned above.

4. The petition is accordingly dismissed.
5. Copy of this order be sent to the petitioners.

(RAJIV NARAIN RAINA)
JUDGE

23.09.2016
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Whether speaking/reasoned	Yes
Whether reportable	Yes