

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.18126 of 2010
Date of Decision:- 29.03.2016

Dariya Singh

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.L. Dhingra, Advocate, for the petitioner.

Mr. Keshav Gupta, Assistant Advocate General, Haryana.

Mr. R.N. Lohan, Advocate, for respondent No.5.

Ms. Geetanjali Chhabra, Advocate
for Mr. Raman B. Garg, Advocate,
for respondent Nos.7 to 10.

Mr. Nimanyu Gautam, Advocate, for respondent No.11.

RITU BAHRI, J. (Oral)

Petitioner by way of present petition seeking direction to the respondent to treat him regular employee w.e.f. 20.06.2000 after completing the period of probation on 26.06.2003.

There was a general strike by the staff of the Municipalities in the State of Haryana from 16.12.1996 to 04.03.1997. The Government took a decision to make recruitment during strike and in this background the petitioner was given appointment on 18.12.1996 against the post of Octroi

Clerk (striking employee). After the strike, the regular employees joined their duties on the posts against which the petitioner and other employees were given appointments during strike and the petitioner was relieved on 06.03.1997, while posted in the Municipal Council, Meham, District Rohtak. In the meeting held on 19.12.1996, the decision was taken by the Council of Ministers that all the employees who were employed during the strike be given regular appointments and in this respect letter dated 20.12.1996 (Annexure P-2) has been issued by the Commissioner and Secretary to Government of Haryana. Necessary guidelines were issued vide letter dated 13.05.1997 (Annexure P-3). Despite the above letters (Annexures P-2 and P-3), the petitioner was relieved on the ground that there was no vacancy. Thereafter, the petitioner along with 4 others have filed CWP No.10554 of 1998 titled 'Hans Raj and others Vs. State of Haryana and others', which was allowed on 17.11.1998 (Annexure P-4), by this Court. Vide letter dated 23.12.1998 (Annexure P-5), the petitioner was asked to supply his particulars and qualifications for the purpose of seniority. In compliance of order of this Court, the petitioner was appointed, vide letter dated 20.06.2000 (Annexure P-7) on probation for a period of two years. The petitioner joined on 26.06.2000 as a Clerk in Municipal Council, Meham, after submitting his medical certificate issued by the Civil Surgeon. The petitioner after joining Municipal Council, Meham was transferred to Municipal Council, Pataudi, District Gurgaon and thereafter to Municipal Council, Taoru, District Gurgaon and finally to Municipal Council, Bhiwani, where he served up to 28.07.2008. After completing the period of probation, vide representation (Annexure P-13/A),

the petitioner sought that his services be regularized. In the said representation, the details of the similar situated employees, who had made regular, had been given. Municipal Council, Meham, vide letter dated 29.01.2010 (Annexure 15), passed a resolution and sent it to the Deputy Commissioner, Rohtak for issuance of order of regular appointment of the petitioner. Petitioner has made reference to the orders of regularization passed by the Deputy Commissioner, Rohtak, vide order dated 10.04.2007 (Annexure P-18), in favour of petitioner Nos.1 and 2 in CWP No.10554 of 1998 but the petitioner has been discriminated.

In the written statement filed on behalf of respondent No.3 it has been admitted that the services of Hans Raj and Balraj, Clerk, were regularized, vide order dated 10.04.2007, as they had completed three years of service and at that time they were posted at Municipal Committee, Meham. The petitioner had completed his three years service at Municipal Committee, Taoru, District Gurgaon. Thereafter, he was transferred to Municipal Committee, Kalanaur, District Rohtak from Municipal Council, Hansi, District Hisar, vide order dated 10.11.2011 and he joined his duty on 02.12.2010. In the meantime, the instruction dated 2003 for regularization of adhoc/daily wages service were withdrawn by the Government, vide letter dated 25.04.2007 (Annexure R-V). In this background, the services of the petitioner could not be regularized. On facts the respondent(s) have not disputed that the petitioner was accommodated in Municipal Committee, Pataudi, District Gurgaon, where he joined on 22.11.2001 as there was no vacant post available at Municipal Committee, Meham. However, he completed his three years of probation period in the District Gurgaon.

An affidavit has been filed by Director, Urban Local Bodies, Haryana dated 04.07.2015 on behalf of respondent Nos.1 and 2, in which, the stand taken is that the regularization policy was withdrawn by the Government, vide notification dated 13.04.2007. Thereafter, vide Government notification dated 18.06.2014 another regularization policy was issued and the same has now been put on hold, vide letter dated 05.05.2015 (Annexure R-1) (Colly). Thereafter, no reference has been received from Deputy Commissioner, Rohtak with regard to the regularization of the petitioner.

In a separate written statement filed on behalf of respondent No.11 it is further admitted that the petitioner has completed the probation period of three years service after appointed on adhoc basis at Municipal Council, Pataudi, District Gurgaon and the regularization orders have to be passed by the authority in whose jurisdiction the petitioner had completed the probation period.

After hearing the learned counsel for the parties and going through the record, this Court is of the considered view that the petitioner has been appointed and adjusted against the post of Octroi Clerk, vide order dated 20.06.2000 (Annexure P-7). He was appointed on probation for a period of two years and his appointment was made in compliance of order of this Court in CWP No.10554 of 1998 and out of five petitioners, the department has regularized the services of two petitioners, namely, Hans Raj and Balraj, vide order dated 10.04.2007 (Annexure P-18). Since the petitioner had been appointed along with Hans Raj and Balraj, vide letter dated 20.06.2000 (Annexure P-7) and completed his probation period

successfully. His claim for regularization could not be declined on the ground that he had been transferred from Gurgaon to Municipal Committee, Kalanaur, District Rohtak from Municipal Council, Hansi, District Hisar thereafter and during this process, the regularization policy had been withdrawn by the Government, vide letter dated 28.04.2007 (Annexure R-5). The petitioner cannot be discriminated for the purpose of regularization as Deputy Commissioner, Rohtak had regularized the services of Hans Raj and Balraj, vide order dated 10.04.2007 (Annexure P-18) and the petitioner at that stage was not working in District Rohtak. He has been wrongly denying the benefit of regularization.

In view of above, the present writ petition is allowed with the directions to the respondent(s), to consider the case of the petitioner for regularization of his services, at par with Hans Raj and Balraj w.e.f. 30.09.2003 (Annexure P-18). The orders should be passed within two months from the date of receipt of certified copy of this order and thereafter the compliance report be sent to this Court.

March 29, 2016
naresh.k

(RITU BAHRI)
JUDGE