

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

**CWP No.16993 of 2011
Decided on :11.01.2016**

Manohar Lal

... Petitioner

Versus

The Punjab State Power Corporation Ltd and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Ms. Jyoti Sarin, Advocate
for the petitioner.

Mr. Vikas Chatrath, Advocate
for respondents No.1 to 5.

G.S. Sandhawaliala , J. (Oral)

The petitioner challenges the order dated 19.05.2011 (Annexure P-7), whereby the request of the petitioner for regularization has been denied by the Chief Engineer/Operation (South) of the respondent-Corporation.

The reasoning given in the said order is that the petitioner had worked with the respondent-Corporation from 18.07.1989 to 02.07.2001 in the office of Grid Sub Station Division, Jalandhar when he had completed 10 years of service as a work charge Driver. The ground given is that the case of the petitioner is not covered under the policy, which pertained to regularization for work charge workers working on projects only. The additional ground is that some disciplinary proceedings were pending against

the petitioner. Reference to the policy of 1994 has been made, which was subsequently revised on 30.11.1996. The said policy decisions have been placed on record as Annexure R-5/1 and Annexure R-5/2. The case of the petitioner that another similarly situated employee, namely, Basant Singh had been regularized was rejected on the ground that there was no similarity between the case of the two employees without distinguishing the same.

It is the case of the petitioner that petitioner has been working as a Work Charge Driver from 23.07.1986 and Basant Singh was similarly situated and was employed at a later point of time from 19.08.1986, but was given the benefit of regularization from 30.12.1997. Similarly, one Rachhpal Singh, who was appointed on 13.01.1989, after the petitioner, was also granted the said benefit w.e.f. 27.03.1998 vide order dated 16.07.2003 (Annexure P-9).

A perusal of Annexure P-9 would go on to show that Rachhpal Singh was working under SE/DS Circle, Bathinda and, therefore, once the said person had been given the benefit of regularization while not working on project, the petitioner could not have been discriminated on the same basis.

The impugned order was passed on the strength of direction issued by this Court in **CWP No.17385 of 2010 titled as 'Manohar Lal Driver Vs. The Punjab State Power Corporation,**

Patiala and others', decided on 27.09.2010 (Annexure P-6), wherein this Court had *prima facie* observed that the petitioner could not be expected to work as a work-charge employee for the entire length of his service and the respondent was under an obligation to take a conscious decision regarding the regularization as per the policies.

It is not disputed that the second policy was issued on 05.09.1997 and the petitioner came within the ambit of policy regarding the length of service, since he had completed 10 years of his service on 30.11.1996.

Counsel for the respondent-Corporation has placed on record photocopy of policy dated 15.12.2006 issued by the State of Punjab. A perusal of the same would go on to show that the earlier policy stand superseded by the said policy. The impugned order was passed on 19.05.2011. If the said policy was invogue at that point of time, the same should have been kept into consideration. Nothing could be shown from the said policy of 2006 that the benefit of regularization is to be denied to the persons, who are not working in the projects. While taking a decision, the respondent then should have kept into mind the policy, which was prevalent at the time of consideration and if the subsequent policy which is a beneficial instruction gave certain rights, it should have been kept in mind. It is not disputed that the

petitioner has been working since 1986 and a period of almost 3 decades have expired, since the petitioner's services have been utilized by the respondent-Corporation. The benefit of regularization continues to be denied, while granting the benefit of regularization as noticed to one Rachhpal Singh, who was not working on a project. The respondents have thus acted in an arbitrary manner and this Court is of the opinion that Article 14 has been violated and the impugned order cannot be sustained and is accordingly quashed.

Accordingly, the writ petition is allowed. The Chief Engineer/Operation (South), who had passed the impugned order will re-decide the issue afresh within a period of 2 months from the receipt of the certified copy of this order, keeping in view the prevalent instructions and keeping in mind the fact that the petitioner had worked for almost 3 decades with them. The factum of the similarly situated employee-Rachhpal Singh having been granted the benefit of regularization would also be taken into consideration, while deciding the said issue.

In case the petitioner is granted the said relief the benefits be paid within a period of 2 months, thereafter.

JANUARY 11, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE