

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

Date of decision: 06.04.2016

CWP No.21554 of 2011

Jagtar Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.K.Arora, Advocate, for the petitioner.

Mr. Vaibhav Sharma, DAG, Punjab.

None for respondent No.2.

Mr. Akshay K. Goel, Advocate, for respondent No.3.

1. *To be referred to the Reporters or not? Yes.*
2. *Whether the judgment should be reported in the Digest? Yes.*

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner has been slogging with respondent No.3 – Market Committee, Naushehra Pannuan, District Tarn Taran since 1986 as a Sweeper on daily wages. The service is continuous and without break. The Market Committee passed a resolution dated 4th December, 1996 (Annex P-2) resolving that the work and conduct of the petitioner is satisfactory and his age-old services deserve to be regularized. The said resolution was sent to respondent No.2 - Punjab Mandi Board for approval vide letter dated 4th December, 1996 (Annex P-3). However, no action has been taken by respondent No.2 – Punjab Mandi Board so far without any legal justification. After long wait the Market Committee passed another resolution on 29th

September, 2008 to the effect that one post is available against which the claim of the petitioner can be adjusted. However, the resolution and the request made to the Punjab Mandi Board have met stony silence. The prevailing position is that even after rendering about 30 years of service, the petitioner's services have not been regularized and many of his valuable intervening rights have been infringed as may have arisen from various regularization policies of the Punjab Government applicable to the Punjab Mandi Board passing by where under the services of daily-wage/ad hoc/temporary workers who had put behind them long years of service were considered favourably in cases of other employees similarly placed as the petitioner.

No one appears for respondent No.2 - the Punjab Mandi Board despite the case having been called for final hearing. Thus, respondent No.2 – the Punjab Mandi Board is proceeded against ex parte. On the other hand, learned counsel appearing on behalf of respondent No.3 – Market Committee has not disputed the averments made in the petition. Thus, the averments in the petition are accepted as true and correct and on which a decision can be based. In the written statement, the Market Committee has put the blame on the Punjab Mandi Board and the Punjab Mandi Board has remained inactive and inert, the just cause of the petitioner long forgotten as worthy of consideration.

In support of his case, Mr. Arora relies on a decision rendered in CWP No.2204 of 2010 titled 'Prem Singh & another Vs. State of Punjab & others' decided on 14th October, 2010 (Annex P-13), wherein in similar circumstances involving a Chowkidar in the Punjab Mandi Board, this Court speaking through Brother Surya Kant, J. passed a tough order prefacing the judgment as a case "which is a classic example of exploitation of the petitioners at the hands of the State authorities". In *Prem Singh's case*, the petitioners had worked since 1982 and 1984 respectively. They were granted

promotion as work-charged employees in 1990 and 1993 respectively, but yet were not regularized until this Court came to their rescue and passed the order. Mr. Arora further relies on a decision of this Court in CWP No.4117 of 2011 titled 'Sukhdev Singh & others Vs. The State of Punjab & another' decided on 8th March, 2011 to the same effect by the same Hon. Judge directing the State of Punjab to take an appropriate decision on the recommendations received from the Punjab Mandi Board in the case of the petitioners during the time-frame fixed by the Court. In implementation of both the orders, the Punjab Mandi Board has regularized the services of the petitioners in those cases. This case broadly stands on the same footing and deserves the same fate to prevent further continued violation of the equality clause in Article 14 of the Constitution of India. The petitioner has clearly demonstrated a case for intervention in writ jurisdiction when the facts are not in dispute.

As a result of the above discussion, this writ petition is allowed. The impugned action in denying regularization is held to be arbitrary, illegal and unconstitutional. Respondent No.2 - Punjab Mandi Board and respondent No.3 - Market Committee are directed to treat the petitioner as a regular hand from the date when persons similarly situated were regularized in service and from the earliest available and applicable policy on regularization of the Punjab Government adopted by the Punjab Mandi Board or the policies of the Punjab Government which they were bound to honour and abide by, as the case may be. The petitioner is also held entitled to all consequential benefits with retrospective effect, so that he is neither disadvantaged nor is compelled to approach this Court again for any remaining relief such as seniority, pension etc. The monetary relief which flows from this order retroactively will be calculated and paid to the petitioner within three months from the date of receipt of certified copy of this order. The petitioner would be associated in

the calculation exercise so that no doubt is left as to the amounts payable. The monetary benefits will be paid by the Punjab Mandi Board and will not be passed on to Market Committee. Punjab Mandi Board will be at liberty to pass on the moneys and recover them from erring officials who took no action for approval of the recommendations forwarded by the respondent Market Committee. This would be the just and equitable balance to be struck.

The mandate; the obligations on State of Punjab and the potency of Article 14 of the Constitution require ordering extensive amends and directions as above in making corrective surgery to bring the less fortunate petitioner at par with the fortunate who secured favourable orders from the same employer/s under compulsive writ, order and directions which should have been read in *rem.*

06.04.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE