

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 22743 of 2013

Date of decision : February 16, 2016

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Suresh Chand and another

.....Petitioners

Versus

The State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Deepak Sonak, Advocate for the petitioners.

Mr. Keshav Gupta, AAG, Haryana for the respondents.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioners are seeking directions to the respondents to quash the orders dated 14.3.2013 (Annexure P-7 to P-8) whereby the claim of the petitioners for regularization of their services has been rejected.

The petitioners were working with the respondent-Department on daily wages basis. The services of petitioners were terminated ad they raised the industrial dispute before the Labour Court, Ambala. Labour Court, Amabala vide its order dated

13.10.2004 (Annexure P-1) in the case of Suresh Chand and order dated 21.2.2005 (Annexure P-2) in the case of Jaswinder Singh, reinstated the petitioners as under:

<i>Sr. No.</i>	<i>Name</i>	<i>Date of Appointment</i>	<i>Date of termination</i>	<i>Decision of Labour Court</i>
1	Suresh Chand	1986	01/10/96	Reinstatement with continuity of service without back wages vide award dated 13.10.2004
2	Jaswinder Singh	01/10/96	31.7.1999	Reinstatement with continuity of service without back wages vide award dated 21.2.2005

After reinstatement, the petitioners made their claim for regularization as per the policies dated 7.3.1996, 18.3.1996 and 1.10.2003. When the case of the petitioners was not considered by respondent no.2, they filed **CWP No.21310 of 2012** titled, '**Suresh Chand and others vs. State of Haryana and others**' which was disposed of with a direction to respondent no.2 to consider and decide the legal notice of the petitioners dated 2.6.2012 and pass appropriate orders within a period of four months. Vide impugned order dated 14.3.2013 (Annexure P-7 to P-8), their case for regularization has been declined. The case of the petitioners was considered as per regularization policy 29.7.2011 and in view of the ratio laid down in **State of Karnataka vs. Uma Devi and others 2006(4) SCC (1)**. Their representation was rejected while holding that the petitioners did not fulfill the conditions of the regularization policy 29.7.2011 as they had neither been employed through employment Exchange nor they had been appointed on the basis of recommendations made by the Department Selection Commission.

Moreover, they had not worked for ten years as on 10.4.2006.

An LPA Bench of this Court in the case of ***State of Haryana and others vs. Mohammad Farookh and another (Annexure P-11)*** was considering a case of regularization where reinstatement had been ordered by way of labour Court Award. The termination of workmen was held to be violative of Section 25-F of the Industrial Disputes Act, 1947 as they were held to have worked for more than 240 days in the 12 preceding months prior to their wrongful retrenchment. The case for regularization was denied as they were not covered under the policy circular dated 1.10.2003 issued by the State Government for regularization of services of daily wages/contractual employees as the policy stipulated certain conditions including that the eligible employees should be in service as on 30.9.2003. The Division Bench observed that this policy of regularization dated 1.10.2003 had been withdrawn by the State Government on 9.5.2007 after the decision of Hon'ble the Supreme Court in ***Uma Devi's case (supra)*** but keeping in view that before withdrawal of the policy, hundreds of daily wages/contractual employees were made regular under the said policy, the respondents were also in service before withdrawal of the above stated policy and in view of the Labour Court's award which had attained finality, they were deemed to be in service on 30.9.2003. Hence they were held entitled for regularization as per the policy circular dated 1.10.2003. The Letters Patent Appeal No. 836 of 2013 filed by the State of Haryana was dismissed. The ratio of LPA No.836 of 2013 is directly

applicable to the facts of the present case. Suresh Chand was reinstated in service vide award dated 13.10.2004 and Jaswinder Singh was reinstated vide award dated 21.2.2005. They were terminated on 1.10.1996 and 31.7.1999 respectively and hence after reinstatement for all intents and purposes, they were in service on 30.9.2003 and their case was fully covered as per the policy of regularization dated 1.10.2003.

Having regard to the aforesaid, the issue involved in this petition is squarely covered by judgment in the case of Mohammad Farookh's case (supra) bearing LPA No.836 of 2013 (Annexure P-11), therefore the present writ petition is allowed. The services of the petitioners are ordered to be regularized in terms of the State Government policy dated 1.10.2003 with all consequential benefits.

February 16, 2016
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(**RITU BAHRI**)
JUDGE