

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 22793 of 2013 (O&M)

Date of decision : February 16, 2016

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Ram Kishan and another

.....Petitioners

Versus

The State of Haryana and others

.....Respondents

* * * * *

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

C.M No. 11648 of 2015

C.M is allowed.

Replication and Annexures P-12 to P-14 are allowed to be taken on record.

CWP No. 22793 of 2013

The petitioners are seeking directions to the respondents to quash the orders dated 07.05.2013 (Annexure P-7 to P-8) whereby the claim of the petitioners for regularization of their services has

been rejected.

The petitioners Ram Kishan and Ramchander were appointed w.e.f 4/1990 and 6/1987 respectively on daily wages basis in the respondent-Department. Services of petitioner no.1 were terminated w.e.f 1.1.1999. Petitioner no.1 was ordered to be reinstated with continuity of service vide award dated 26.4.2004 passed by the Labourt Court, Ambala.

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.2784 of 2013 titled, 'Ram Kishan and others vs. State of Haryana and others', which was disposed of with a direction to the Principal Chief Conservator of Forests, Forest Department, Haryana to consider and decide the legal notice of the petitioners dated 5.7.2012 and pass appropriate orders within a period of four months. Vide impugned order dated 07.05.2013 (Annexures 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 the 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 and the case of the petitioners 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