

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

**CWP No. 20914 of 2015
Date of decision : 15.02.2016**

Jai Narayan

...Petitioner

versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Singal, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl.A.G. Haryana

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

RITU BAHRI , J.

Written statement filed on behalf of respondent Nos. 1 to 5
is taken on record.

Petitioner was initially appointed as “Beldar” against a vacant sanctioned post on 22.06.1995 on daily wage basis and on 31.12.1997, the services of the petitioner was terminated. The petitioner raised a dispute and the matter was referred to the Industrial Tribunal cum Labour Court, Rohtak, who answered the reference in favour of the petitioner, vide award dated 29.08.2005 and direction was given to the respondents to reinstate the petitioner in service with continuity of

service along with 50% back wages from the date of demand notice i.e. 10.03.1998. Subsequently, the department reinstated the petitioner on his previous post of Beldar. Thereafter, Haryana Government on 01.10.2003 had issued a policy that all daily wagers who have completed three years of service on 30.09.2003 are entitled for regularization (P-3).

The precise grievance of the petitioners that since the petitioner was not in service on 01.10.2003 as his case was pending before the Labour Court, the respondent-department rejected the claim of the petitioner wrongly on the frivolous ground that the services the petitioner has not been regularised, till date. However, the services of the junior persons i.e Ashok Kumar and Rajesh were regularized by the department w.e.f 01.10.2003, as per policy dated 01.10.2003.

On notice, a written statement has been filed on behalf of respondent No 4 admitting all the facts about the date of appointment of the petitioner and passing of award by the Labour Court but a stand has been taken that the petitioner submitted an affidavit before the Labour Court that he was gainfully employed during the period of his disengagement and till the time of his reinstatement. The petitioner was reinstated in service.

Learned counsel for the petitioner contends that vide award

dated 29.08.2005 (P-2), the Labour Court again answered the reference in favour of the petitioner and directed the respondents to reinstate the petitioner in service with continuity of service along with 50 % back wages from the date of demand notice i.e. 10.03.1998. Thus, the petitioner was held to be deemed in service w.e.f 22.06.1995 and he has completed his almost 08 years of service when Haryana Government framed its policy dated 01.10.2003 to regularize the persons who had completed three years of service on 30.09.2003.

Reference has been made to plethora of judgments passed by this Court regarding regularization of their services in view of policy dated 01.10.2003 wherein it has been held that regularization of similar situated employee cannot be rejected on the ground that after Uma Devi's judgment policies of regularization have been withdrawn by the Government. The judgments cited by learned counsel for the petitioner mentioned as under:-

1. ***Ved Pal vs. State of Haryana and others,***
CWP No. 1169 of 2009 decided on 10.02.2012
2. ***State of Haryana and others v. Ved Pal and others***
LPA No. 1037 of 2012 decided on 25.07.2012
3. ***Arun Kumar and others v. State of Haryana and others***
CWP No. 4821 of 2011 decided on 19.04.2012
4. ***Chet Ram and others v. State of Haryana and others***
CWP No. 2822 of 2012 decided on 19.09.2012
5. ***State of Haryana and others v. Chet Ram and others v.***

LPA No. 1214 of 2013 decided on 12.07.2013

**6. *Khajjan Singh and others v. State of Haryana and others*
CWP No. 10017 of 2011 decided on 28.05.2014**

**7. *Ram Kumar v. State of Haryana and others*
CWP No. 9873 of 2013 decided on 07.05.2015**

Learned counsel for the respondent while referring to the written statement filed on behalf of respondent Nos. 1 to 5 contends that the writ petition filed by the petitioner deserves to be dismissed, as all the policies of regularisation of service were withdrawn vide notification dated 12.04.2007/25.04.2007, in view of the decision of Hon'ble Apex court in ***Uma Devi's case***.

Heard learned counsel for the parties.

Reference at this stage can be made to a judgment passed by this Court in ***CWP No. 5848 of 2011 titled as Karamvir Singh vs. State of Haryana and others and connected cases***, decided on 11.01.2012 where similar issue has been dealt with wherein the petitioner was working as Peon on daily wages w.e.f 10.03.1992 and was terminated vide order dated 09.06.1999, which was challenged by him and the Labour Court held the order to be illegal, null and void and the petitioner was held entitled to reinstatement in service with all consequential benefits including continuity of service and full back wages. The department went up to the Hon'ble Supreme Court but the

award passed by the Labour Court attained finality. But the petitioner was taken back in service on 18.03.2010 and thus his claim for regularization of his service in view of policy dated 01.10.2003 was declined by the Department. But this Court allowed the writ petition filed by the petitioner and held that the petitioner is deemed to be in service since 10.03.1992 as the order of termination of service dated 09.06.1999 was held to be null and void by the Labour Court. Thus, the petitioner was held entitled to regularization of his service from the date the services of his juniors were regularized and was held entitled to the benefit of policy decision dated 01.10.2003 with all consequential benefits.

In the present case as well, the award was passed in favour of the petitioner on 29.08.2005 (P-1) and direction was given to the respondents to reinstate the petitioner in service with continuity of service with 50% back wages from the date of demand notice i.e. 10.03.1998. For all intents and purposes, the petitioner was held to be deemed in service w.e.f 22.06.1995 and only on the ground that he was not in service on 01.10.2003, will not deprive him of the benefit of the Haryana Government policy dated 01.10.2003 whereby all daily wagers who have completed three years of service on 30.09.2003 were held entitled for regularization.

In view of the above, the writ petition is ***allowed*** and order dated 11.09.2015 is hereby set aside. Petitioner is held entitled to regularization of his service, from the date persons junior to him have been regularized. Petitioner will be entitled to all consequential benefits in terms of policy decision dated 01.10.2003.

(RITU BAHRI)
JUDGE

15.02.2016

G Arora