

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

CWP No.25877 of 2013

Date of decision: 19.02.2016

Jarnail Singh and another

...Petitioners

versus

Haryana Urban Development Authority and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Arora, Advocate,
for the petitioners.

Mr. Padamkant Dwivedi, Advocate,
for the respondents.

RITU BAHRI, J.

Petitioners are seeking quashing of order dated 31.10.2013 (Annexure P-6), whereby claim for regularization of their services has been declined on the ground that they were appointed on 02.05.1996 and as per instructions dated 11.02.2004, case of daily wager Group 'C' and 'D' employees can be considered for regularization, who have been engaged before 31.01.1996.

In the written statement, respondents are not disputing the fact that the petitioners were appointed on adhoc basis on 02.05.1996 and they were not engaged on daily wage basis.

As per instructions dated 01.10.2003 (Annexure P-2), essential condition to regularize the services of adhoc employees was that they should have completed three years of service as on 30.09.2003, which the petitioners have fulfilled as they had been appointed on 02.05.1996. They were in

service on that date as well. Hence, the clarification issued by the State vide Annexure P-7 that only those daily wage Group 'C' and 'D' employees would be regularized who had been engaged before 31.01.1996, has been wrongly applied in the case of the petitioners while rejecting their case for regularization. On this score itself, the impugned order is liable to be set aside.

Another ground taken by the respondents in the written statement is that the petitioners do not fulfill condition No.(ii) of the instructions dated 01.10.2003 (Annexure P-2) as they do not possess the prescribed qualification for the post held on adhoc basis. As per Haryana Urban Development Authority (Regular Work Charged Field Staff) in Civil, Electrical, Horticulture Wings of the Engineering Wing of Haryana Urban Development Authority (Group 'C') Service Regularizations, 2009, notified on 16.03.2009, the qualification for the post of Water Pump Operator is Matric with Hindi/Sanskrit and ITI Certificate in the trade of Motor/Diesel/Mechanical/Electrical/Wireman.

Even this condition cannot be imposed while considering the case of petitioners for regularization, as these eligibility qualifications were prescribed and notified on 16.03.2009, whereas the petitioners have been working as Water Pump Operators with the respondents since 02.05.1996. At that time, no such qualification was required for the post of Water Pump Operator.

Learned counsel for the respondents has further argued that regularization can be made only against a sanctioned post. Even this argument is liable to be rejected as the petitioners have been continuously in service with the respondents since 02.05.1996 and it was for the respondents

to sanction the regular post(s), if there was a need to retain the employees for more than 20 years. In these circumstances, this Court is of the view that the services of the petitioners should have been regularized as per regularization policy dated 01.10.2003 (Annexure P-2).

In view of the above, the impugned order dated 31.10.2013 (Annexure P-6) is set aside and the respondents are directed to regularize the services of the petitioners as per policy of regularization dated 01.10.2003 (Annexure P-2) along with all other consequential benefits, as they have fulfilled all the necessary conditions of regularization.

Petition stands allowed accordingly.

19.02.2016
ajp

(RITU BAHRI)
JUDGE