

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

CWP No. 27715 of 2013

Date of decision:-08.02.2016

Bal Govind

...Petitioner

versus

HVPNL and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh Arora, Advocate,
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate
for the respondents

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

RITU BAHRI , J.

Petitioner has approached this Court praying for issuance of writ in the nature of certiorari quashing the reply dated 12.08.2013 (P-13) to the legal notice whereby claim of the petitioner for regularization in the light of policies decision in 1993, 1996 and 1999.

Learned counsel for the petitioner contends that the petitioner has been denied the benefit of the above policies on the ground that the petitioner was not brought on regular appointment as

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he did not fulfill the terms and conditions of the policy issued by the Nigam, which is not sustainable in the light of the award dated 11.11.2010 vide which the petitioner was ordered to be reinstated in service with continuity of service along with 50% back wages. Further CWP No. 19550 of 2011 and LPA No. 1131 of 2013 filed by the Nigam against the award was also dismissed and SLP filed by the Nigam is pending consideration.

The precise grievance of the petitioner that services of juniors to the petitioner have been regularized by the Nigam on the basis of instructions issued in the year 1993, 1996 and 1997 and this fact brought to the knowledge of the Nigam by the petitioner, vide representation dated 16.04.2013 (P-5)

On the other hand, Mr. Pardeep Singh Poonia, learned counsel appearing for the respondents while referring to written statement filed by the respondents contends that the case of the petitioner was not found covered with the regularization policies adopted by the Nigam (P-8 to P-11). Reference has been made to policy dated 11.05.2012 wherein it has been stated that “the concerned employee should have been appointed only after either his name has been mentioned by the Employment Exchange or has been appointed/engaged on the basis of recommendation made by the Departmental Selection Committee inviting applications through

advertisement against duly sanctioned vacant post. Further “the work and conduct of such employee should have been throughout satisfactory and no disciplinary or criminal proceedings should be pending against him and further the employee/worker should have continued to work for not less than 10 years as on 10.04.2006 and is still in service but not under the cover of orders of the Courts or Tribunals, against duly sanctioned posts.”

This issue came up for consideration before this Court in a case of **Mohammad Farookh and anr vs. State of Haryana and others, 2012(6) SLR 687** and in para 7 and 8, it has been observed as under:-

7. The other objection which has been raised by the respondents denying the claim as has been made by the petitioners for regularization of their services is that they did not fulfil the requisite qualification nor were they appointed against sanctioned/vacant posts. This objection cannot be accepted in the light of the fact that minimum qualification prescribed for the post of Beldar is not mentioned nor any statutory Rules have been referred to which would suggest that the appointments of the petitioners should be with a specified qualification. With regard to the availability of sanctioned post, the same also cannot be accepted keeping in view the fact that petitioners are

daily wage employees and posts are created depending upon the need which has been created by the respondents and persons who have been appointed subsequent to the petitioners have been regularized. Plea of the respondents that petitioners had not completed more than 240 days in a preceding year also cannot be accepted in the light of the Awards dated 11.8.2004 (Annexures-P-1 and P-2), passed by the Industrial Tribunal-cum-Labour Court, Ambala.

8. *As regards the submission of the counsel for respondents that the policies for regularization of the services of the adhoc/daily wage part time/ temporary workers have been withdrawn, suffice it to say that the right of the petitioners for consideration arose to them as per the policy dated 1.10.2003, and the denial thereof on the ground that they have not completed 240 days in 12 preceding months have been found to be not in accordance with law. The plea of the respondents that the petitioners having approached this Court after a delay cannot again be accepted as the petitioners have been representing the respondents and their claim has been denied merely because they were not in service on the relevant date which plea has also been found to be not correct in the light of the Awards passed by the Industrial Tribunal-cum-Labour*

Court, Ambala, referred to above. “

In the present case as well, the award was passed in favour of the petitioner on 11.11.2010 (P-1) and direction was given to the respondents to reinstate the petitioner in service with continuity of service along with 50% back wages. For all intents and purposes, the petitioner was held to be deemed in service w.e.f 06.03.1982 and his services of his juniors had been regularized in terms of instructions/policies issued in the year 1993, 1996-97 and the case of the petitioner at this stage can be considered in view of the policy/instruction dated 01.10.2003 issued by State of Haryana, as the respondents had not reinstated the petitioner in terms of 2011 policy on the ground that he had not completed 10 years of service.

In view of the above, the writ petition is allowed and direction is given to the respondents to regularize the service of the petitioner from the date persons junior to him, have been regularized, in view of policy/instruction dated 01.10.2003 and petitioner will be entitled to all consequential benefits except arrears as a consequence of regularization of his service.

(RITU BAHRI)
JUDGE

08.02.2016

G Arora