

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 23740 of 2016
Date of Decision : 30.11.2016

Prithvi Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Vinod Bhardwaj, Advocate for the petitioner.

Anupinder Singh Grewal, J.(Oral)

The petitioner has sought quashing of the order dated 14.10.2016 (Annexure P-9) passed by respondent No. 2, whereby his representation for regularisation of his services w.e.f. 26.06.1986 has been rejected.

The petitioner is stated to have been appointed as a Conductor with the respondents-Department on temporary basis on 14.11.1984. The services of the petitioner were regularised vide order dated 20.07.2001 (Annexure P-2) w.e.f. 10.11.1988. The petitioner had preferred CWP No. 27036 of 2015, which was disposed of by a co-ordinate Bench of this Court on 23.12.2015 (Annexure P-8) with a direction to respondent No. 2 to consider and decide the representation of the petitioner and in compliance thereof respondent No. 2 has rejected the representation of the petitioner vide impugned order dated 14.10.2016 (Annexure P-9).

I have heard learned counsel for the petitioner.

It is manifest from perusal of the impugned order that the

petitioner had earlier preferred a Civil Suit No. 191 of 2009, wherein a specific issue had been raised as under :-

“Whether the plaintiff is entitled to a decree for mandatory injunction directing the defendants to release benefit of ACP Scale by counting of length of service along with interest 24 per cent per annum w.e.f. initial date of appointment i.e. 14.11.1984 and regularization? OPP.”

This issue was decided against the petitioner and the suit was dismissed by Civil Judge (Junior Division), Kaithal vide judgment and decree dated 22.03.2010. The first appeal preferred thereagainst by the petitioner was also dismissed by the Additional District Judge, Kaithal vide judgment dated 24.07.2012.

The petitioner had challenged the same by preferring RSA No. 4310 of 2013 before this court, which was also dismissed vide judgment dated 20.07.2015. The relevant part of the judgment dated 20.07.2015 is reproduced hereunder:-

“The plaintiff filed an appeal against the judgment of the trial Court. Appellate Court observed that the defendants were able to lead sufficient evidence to show that plaintiff had completed 240 days when he was appointed on 25.03.1988 and thereafter his services were regularized on 19.11.1988. On earlier occasions when he was appointed, he had not completed 240 days in one calendar year. First ACP was granted to him on 01.12.1998 when he had completed 10 years of regular service. Appellate Court found no infirmity in fixing the date of regularization of plaintiff as 19.11.1988. The plaintiff had produced on

record the list showing the date of appointment and date of regularization of the employees Ex. P-8 to contend that his juniors are getting better scale than him. The list Ex. P-8 was examined by the Courts but from the list it could not be made out that the employees were junior to the plaintiff. The plaintiff while appearing as PW-1 admitted in his cross-examination regarding the breaks in service periods mentioned in the impugned order. Hence, appellate Court observed that the order of regularization w.e.f. 19.11.1988 does not require any interference in the regular second appeal before the trial Court.”

Therefore, it has already been held that there is no infirmity in regularisation of the petitioner's services from 19.11.1988 which has attained finality. It is not open for him to re-agitate the same by preferring the instant writ petition in the year 2016 claiming regularisation w.e.f. 14.11.1984 instead of 19.11.1988.

Consequently, the petition being wholly misconceived stands dismissed.

November 30, 2016.

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**(ANUPINDER SINGH GREWAL)
JUDGE**

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No