

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 03.12.2016****CWP No.25014 of 2016**

Sadhu Ram & another

...Petitioners

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. M.S.Kathuria, Advocate, for the petitioners.

RAJIV NARAIN RAINA, J. (ORAL)

The order impugned (Annex P-3) was passed in the year 2004, vide which the services of both the petitioners were regularized w.e.f. 01.10.2003. The petitioners did not challenge the order all these years and were satisfied with their regularization w.e.f. 01.10.2003. Through this petition filed in 2016, they impugn the order dated 12.03.2004, only after office order dated 19.05.2016 (Annex P-8) has been passed, which gives retrospective regularization to one Rajesh Kumar, Beldar from 01.02.1996 instead of 01.10.2003 as earlier granted. Parity of treatment is sought, that is equal treatment for those who are similarly situated.

When asked whether they belonged to the same division as Beldars and the subject post and the reference post were the same in a common seniority or priority list, learned counsel for the petitioners admits from the perusal of the record of the paper-book that Rajesh Kumar [reference post] was employed in Kaithal, while the petitioners belong to some other district. Therefore, it is quite possible that in the local district-wise or work-wise seniority difference in dates of regularization can

legitimately happen since priority amongst Class IV Beldars by the very nature of things is not maintained State-wise and they do not belong to any sanctioned cadre governed by rules of service before they are regularised.

It is only in a common gradation/priority list, the question of inter se seniority can arise from the date of joining. Conversely, there can be no lis between the gradation/seniority/priority list of Class IV Beldars/daily wagers between different districts and divisions of the Department for the reason that neither the petitioners nor Rajesh Kumar competed for the same post and it is only if they were appointed in the same district/division of work could the petitioners reckon senior to Rajesh Kumar to claim parity. Moreover, the burden would lie on the petitioners to prove equality by pleading facts with respect to the reference employment/ regularization on all fours. Therefore, it may not be possible to equate the two in the matter of grant of same date of regularization as awarded to Rajesh Kumar.

Consequently, finding no merit whatsoever, the instant petition is dismissed.

The dismissal of the petition is additionally by reason of gross delay and laches in the belated approach to seek legal remedy and to make matters worse for the petitioners the bar of limitation has set in years ago so much so that if a suit was filed against the order passed in 2004, it would be barred by limitation.

03.12.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*