

CWP No.4928 of 2016

#1# Manoj Kumar
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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CWP No.4928 of 2016

Jeet Singh and Ors.

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

2. CWP No.5586 of 2016

Balvir Chand and Ors.

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

3. CWP No.5656 of 2016

Rakesh Kumar and Ors.

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

4. CWP No.8073 of 2016

Ashok Kumar

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

5. CWP No.5923 of 2016

Kashmir Singh and Ors.

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

6. CWP No.17213 of 2016

Rajinder Singh and Ors.

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

Date of Order: 23.11.2016

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. R.K. Malik, Sr. Advocate with
Mrs. Rimple Kadyan, Advocate for the petitioner(s).
(in CWP Nos.4928 of 2016)

Mr. Gaurav Tangri, Advocate for the petitioner(s).
(in CWP Nos.5656 of 2016)

Mr. Shashant Bhandari, Advocate for the petitioner(s).
(in CWP No.17213 of 2016)

Mr. Rohiteshwar Singh, Advocate for the petitioner(s).
(in CWP No.8073 of 2016).

Mr. Daman Dhir, Advocate for the petitioner(s).
(in CWP No.5586 of 2016).

Mr. Parminder Singh-I, Advocate for the petitioner(s).
in CWP No.5923 of 2016.

Mz. P.S. Sekhon, Addl.A.G, Punjab.

JASWANT SINGH, J (ORAL)

This common order shall dispose of the aforesaid six petitions as common questions of law and facts are involved in the same. For the sake of convenience, the facts are being extracted from CWP No.4928 of 2016.

In all the petitions, there are 47 petitioners in total, who were engaged as Work Charged Employees at different posts like Plumber, Pump Operator, Assistant Pump Operator and Work Inspector etc i.e both Class III and Class IV posts w.e.f 1984 onwards in the Construction Wing of the Transport Department. On closure of the Construction Wing w.e.f 31.7.1995, they were adjusted in various Depots of the Transport Department either on the same posts or as Helper Electrician, Store Attendants, Washing Boys, Junior Technician Mechanic etc depending on their qualifications. They are stated to be continuously and uninterruptedly working on such posts w.e.f 01.8.1995 with the

Transport Department. The services of all the petitioners were regularized w.e.f 09.2.2012 in terms of the Regularization Policy dated 21.11.2011 vide order dated 09.2.2012 passed by the Director, State Transport Authority, Punjab.

The petitioners thereafter made a representation to the Government on 08.6.2012 seeking their regularization from the earlier dates of appointments i.e 01.8.1995 in view of previous Policies of regularization. The consideration of said representation culminated into passing of the order dated 17.12.2012 **(P.1)**, whereby services of all the petitioners were regularized w.e.f 01.8.1995.

The present set of petitions have been filed aggrieved against the common order dated 25.2.2016 **(P.2)** passed by the Government whereby the earlier order dated 17.12.2012 **(P.1)** has been withdrawn and the services of the petitioners have been considered to be regular in terms of order dated 09.2.2012.

Learned counsel for the petitioner(s) *inter alia* has argued that the order of regularization w.e.f retrospective date i.e 01.8.1995 has been ordered to be withdrawn after more than 3 years without granting any opportunity to explain and in violation of principles of natural justice. It is claimed that had an opportunity been afforded, the petitioners could have explained that the benefit w.e.f 01.8.1995 was extended in the light of previous uninterrupted services and on the same pattern as was extended to similarly situated employees in the Irrigation as well as Water and Supply Departments. Thus, it is contended that the

impugned order **(P.2)** is liable to be set aside as it is settled principles of law that the withdrawal of the benefit of regularization cannot be permitted without affording any opportunity of hearing. In support, learned counsel cites a judgment of this Court reported as **Sanjeev Bagga and Others Vs. State of Haryana and Others 2016(1) LLJ 434.**

Learned State counsel, on instructions from Sukhjit Singh, office of Director, State Transport, Punjab, concedes that before passing of the impugned order **(P.2)**, no opportunity to explain was afforded to the petitioners. She also does not dispute the principle of law as enunciated in the cited judgment. However, an half-hearted effort has been made to show that the case of regularization of the petitioners was taken in terms of Regularization Policy dated 21.11.2011 and therefore the benefit of regularization could not be granted with retrospective effect.

After hearing learned counsel for the parties and going through the pleadings, it transpires that the contentions raised on behalf of the petitioners are meritorious.

A perusal of the order dated 17.12.2012 **(P.1)** shows that the benefit of regularization of services of the petitioners was granted w.e.f 01.8.1995 not in terms of the Policy dated 21.11.2011 but on a consideration of previous Policies, therefore, the contention on behalf of the respondent is misplaced. It is also evident that the impugned order **(P.2)** withdrawing the benefit of regularization w.e.f 01.8.1995 has been passed without any show cause or any opportunity to the petitioners to explain, therefore, in

the light of the settled principles of law, the present writ petitions deserves to be allowed and the impugned order (**P.2**) is liable to be set aside.

Ordered accordingly. However, the respondents would be free to proceed in accordance with law. In case, it is found that while passing of the order dated 17.12.2012, any illegality was committed, then the respondents would also fix the responsibility of all the officials concerned of the Department.

November 23, 2016
manoj

(JASWANT SINGH)
JUDGE