

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

LPA No.44 of 2015 (O&M)

Date of decision: **January 22, 2016**

State of Haryana and another ...Appellants
Versus
Satpal Singh ...Respondent

**Coram: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.Lokesh Sinhal, Addl.AG, Haryana for the appellants.

Mr.K.G.Chaudhary, Advocate for the respondent.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 30.7.2012 passed by the Learned Single Judge, whereby, CWP No.16476 of 1997 filed by the respondent was allowed, the order dated 17.12.1996 passed by the Director, Public Relations Haryana declining his claim for regularisation w.e.f. 1.10.1988 was quashed and the respondent was held entitled to regularisation of his services w.e.f. 01.10.1988 instead of 31.03.1993.

The respondent was appointed as Leader of the Bhajan Party vide order dated 26.05.1978. His services were terminated w.e.f. 31.07.1987. He was given fresh appointment vide order dated 6.8.1987 and he joined on 7.8.1987. On account of his willful absence from 20.1.1988 to 3.2.1988, his services were terminated on 23.2.1988. On his request, he was once again appointed as Leader Bhajan Party vide order dated 16.3.1988,

where after he joined on 17.3.1988. His services were terminated yet again on 9.5.1988 and he was again given appointment on 16.5.1988.

Vide order dated 7.12.1993, the services of the petitioner were regularised w.e.f. 31.3.1993. His request for regularisation w.e.f. 30.9.1988 was declined on the ground that he had not completed 10 years of continuous service as on 30.9.1988, which was stated to be a requirement for regularisation in terms of the Government Policy dated 6.4.1990. The relevant clause II is reproduced below:

“The casual or daily rated employees, who have completed 10 years or more of service on 30.09.88 shall be regularised w.e.f., 1.10.88 on the basis of seniority-cum-suitability.”

The Learned Single Judge after referring to the aforesaid provision concluded that the word 'continuous' is not mentioned therein and the insistence by the Government for continuous service as a pre-requisite for regularisation was against the spirit of the said policy. It was held that casual workers/daily rated employees would not be continuously working as their work would depend upon availability of work. Learned Single Judge held that policy instructions have been issued from time to time wherein, notional breaks have been condoned. It was held that in the instant case there were merely notional breaks, which cannot be said to be of a nature as to disentitle the respondent from his claim of regularisation under the Policy. Accordingly, the writ

petition was allowed.

Learned counsel for the appellant has not been able to spell out any specific requirement for continuous uninterrupted service without any break for regularisation in terms of the Government Policy dated 6.4.1990. No such requirement can be read by implication. Moreover, the conduct of the appellants in repeatedly terminating and re-appointing the petitioner appears to border on an unfair labour practice. If the respondent was unfit to be retained in service, where was the question of offering him appointment again and again.

We find no illegality in the impugned order warranting interference.

Moreover, there is a delay of 828 days in filing the appeal. No justifiable explanation has been offered regarding the delay. It has only been stated that the delay took place due to administrative exigencies as the matter was referred by one Department to the other. We do not find this explanation to be sufficient to warrant condonation of such a huge delay.

Accordingly, the appeal is dismissed, both on merits as well as on the ground of delay.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

January 22, 2016
Atul