

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 257 of 2016 (O&M)
Date of decision: 10.3.2016

**Haryana State Industrial and Infrastructure Development Corporation
Limited and others**

.. Appellants

v.

Nihal Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Gagandeep Singh Wasu, Advocate for the appellants.

...

Rajesh Bindal J.

The appellants have filed the present appeal against the judgment of the learned Single Judge, vide which direction has been issued to consider the claim of the respondent for regularisation from the date his juniors were regularised. Along with the appeal, application for condonation of delay of 126 days in filing thereof has also been filed.

In the case in hand, the respondent was appointed on daily wage basis in June, 1995. On 25.5.1999, his services were terminated, for which industrial dispute was raised. Vide award dated 27.5.2003, the Labour Court set aside the termination and ordered for his reinstatement with continuity in service. The back wages were restricted to 50%. The award of the Labour Court was upheld in the writ petition filed by the appellants. The award of the Labour Court was implemented. The respondent was reinstated in service. As the persons, who were appointed later in time than the respondent and were still in service, were regularised in terms of the policy of Haryana State Industrial and Infrastructure

Development Corporation Limited, the respondent prayed for the same. However, his case was rejected on the plea that he was not in service on the cut-off date. The appellants lost sight of the fact that after his termination was set aside by the Labour Court and he was reinstated back in service with continuity, he was deemed to be in service on that date.

The contention raised that as per the policy, the appointment had to be against a vacant post is merely to be noticed and rejected for the reason that no such specific plea was raised by the appellants before the learned Single Judge and further the appellants did not refer to the facts in detail claiming before the learned Single Judge that persons junior to the respondent, who were regularised, were appointed against vacant posts. In fact, the plea on the face of it is misconceived once it is not in dispute that the respondent was appointed prior to the persons who were appointed later in time to claim that there was no vacant post at the time when the respondent was appointed but posts were available when the persons junior to him were appointed.

For the reasons mentioned above, we do not find any reason to interfere in the present appeal. The same is accordingly dismissed.

As there is no merit in the present appeal, the application seeking condonation of delay of 126 days in filing the appeal is also dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

10.3.2016
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