

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10096 of 2011 (O&M)
Date of Decision:-21.03.2017.

Amar Singh

.....Petitioner

Versus

The Commissioner-cum-Principal Secretary to the Government of Haryana
and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Aseem Aggarwal, Advocate for
Mr. Harsh Aggarwal, Advocate for the petitioner.

Mr. Hitesh Pandit, Additional A.G. Haryana.

P.B. BAJANTHRI, J. (Oral)

CM No.16650-CWP of 2012

CM for placing on record order dated 08.12.2004 as Annexure P/9 and notification dated 1.10.2003 as Annexure P/10 and copy of the attendance sheet for the month of January, 2003 to December, 2003 as Annexure P/11 and with further prayer to dispense with filing of the certified copies of the same is allowed subject to all just exceptions for the reasons stated in the application as well as affidavit.

CM No.13128-CWP of 2012

CM for placing on record short replication along with Annexure P/8 in reply to the written statement filed by the State of Haryana

is allowed subject to all just exceptions for the reasons stated in the

application as well as affidavit.

CWP No.10096 of 2011

In the instant writ petition, petitioner has sought for quashing the order dated 31.3.2010 by which his claim for regularization has been rejected. The petitioner is stated to have appointed as Mali-cum-Chowkidar in the year 1985 on daily wage basis. On 14.5.2004, his services have been withdrawn which was the subject matter in CWP No.6577 of 2005. During pendency of this litigation, the respondents have withdrawn the order of termination and the petitioner has been taken back to duty. In view of the above facts and circumstances, the concerned respondent has rejected the petitioner's claim for regularization on the score that petitioner's services were terminated and he was reinstated, therefore, he is not entitled for regularization.

No doubt the petitioner's services have been terminated. At the same time, it is to be taken note of that he was taken back to duty while withdrawing the order of termination. Thus, it is evident that order of termination was illegal. If an illegal termination order is passed, in such an event, an employee is entitled for all service benefits. Thus, the rejection of the petitioner's claim for regularization vide order dated 31.3.2010 is liable to be set aside and it is, accordingly, set aside. The matter is remanded to the competent authority to take a decision as if the petitioner's services have not been terminated. At the same time, the concerned authority is also required to examine with reference to similarly situated persons who were appointed as Mali-cum-Chowkidar in the year 1995. Thus, persons who have not been terminated and whose services have been regularized that

period of three months from today.

Petition stands dispose allowed.

(P.B. BAJANTHRI)
JUDGE

March 21, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.