

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

**CWP No.7440 of 2007 (O&M)
Date of Decision : 21.02.2017**

Dayawanti and others

..... Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.K.Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

By this petition the petitioner No.1-Dayawanti has claimed that her late husband had to be given the benefit of regularization and consequently she would be entitled to family pension. As per the undisputed averments the services of the husband of petitioner No.1 were terminated on 01.02.1994. He raised a labour dispute and by an award dated 02.05.2006 the Labour Court set aside the order of termination, ordered his reinstatement and granted him continuity of service. A few days later he passed away and that is how the present petition has been filed.

In reply the plea taken by the respondents is that after the award, before the husband of petitioner No.1 could be reinstated he died, even without making a representation for regularization and consequently his services can not be deemed to have been regularized. Some dispute has also been raised regarding the averments about the previous employment of

the husband of petitioner No.1. It has also been pointed out that he had submitted demand notice after 6 years. As regards the dispute regarding his previous service of the husband of the petitioner No.1, suffice it to say that in any case the services of the husband of petitioner No.1 would have to be taken atleast from the date of termination thereof i.e. 01.02.1994. As regards the issue of delay that question has been determined by the Labour Court and it would not be permissible for this Court to revisit that issue in the present writ petition. In the circumstances, what we are left with is that atleast w.e.f. 01.02.1994 the services of husband of petitioner No.1 have to be counted. On 04.08.2016 and on 19.10.2016 this Court had directed the respondents to inform whether the services of any daily wage employee similar to the petitioner who had been appointed between 1994 and 1999 were regularized under the policy instructions dated 01.10.2003. Affidavit of Bijender Singh Nara, Superintending Engineer, Loahru Water Services Circle, Bhiwani dated 14.12.2016 has been filed pursuant thereto. However, I find that this affidavit has un-necessarily narrowed down the inquiry made by this Court because it has limited itself only to those persons who, like the husband of petitioner No.1 had an award in their favour but died before the same could be implemented. In the circumstances, the Court has left with no option but to draw an adverse inference against the respondents and hold that the entire information has not been given only because it would have gone against the interest of the State. Even otherwise it is a matter of common knowledge that under the policy of 2003 all persons who had 3 years un-interrupted service to their credit were entitled for regularization. The Court did not intend such a narrow construction of

1994 were given the benefit of regularization.

Learned AAG has argued that the policy of 2007 has been withdrawn and now this Court has stayed the operation of the policy of 2014 and consequently there is no policy under which the services of the husband of the petitioner No.1 can be deemed to be regularized.

This argument can not be accepted because now the jurisprudential premise on which the services of the husband of the petitioner No.1 have to be regularized is not the policy of the Government but the fact that persons who were engaged much later than him have been given the benefit of regularization of services.

In these circumstances, the petition is allowed. The respondents are directed to regularize the services of the husband of petitioner No.1 as per the policy of 2003 and then count the death-cum-retirement benefits which are payable to the petitioners and disburse the same within a period of three months from the date of receipt of a certified copy of this order, failing which, they would be entitled to claim the same with interest @ 12% p.a. from the date/s the amount/s fell due till the date/s of payment/s.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

21.02.2017
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No