

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

**CWP-15192-2014 (O&M)
Date of decision:12.07.2017**

Gurwinder Singh

... Petitioner

Vs.

State Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. HPS Aulakh, Advocate for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J.

Petitioner assails the order dated 24.06.2014 (Annexure P-1) passed by the Secretary, Public Works Department (Building and Roads), State of Punjab and whereby the claim of the petitioner seeking benefit of regularization in service has been declined.

Counsel appearing for the petitioner would submit that the petitioner was engaged as a Computer Operator-cum-Clerk by the Executive Engineer, Construction Division, Public Works Department, Building and Roads Branch, Gurdaspur on 01.12.2001 and has worked continuously on such post ever since. Further submitted that even the salary has been received by the petitioner by way of cheques and in the name of the petitioner. Also contended that the petitioner while engaged on the post of Computer Operator-cum-Clerk had been deputed for training in the Online Management Monitoring and Accounting System at the Mahatama Gandhi State Institute of Public Administration, Chandigarh. Reliance has been placed upon a Policy dated 18.03.2011 (Annexure P-3) issued by the

Personnel Department, State of Punjab on the subject of regularization of contractual employees working in various departments. Counsel would argue that as per such Policy, which envisage the grant of benefit of regularization as a one time measure, the petitioner was clearly eligible as he had completed three years of service. It is argued that the impugned order rejecting the claim of the petitioner seeking benefit of regularization, as such, cannot sustain.

Per contra, learned State counsel would advert to the impugned order at Annexure P-1 and would submit that the petitioner was a backdoor entrant and had not been engaged by the competent authority. State counsel would justify the passing of the impugned order by submitting that the petitioner was not engaged on a regular sanctioned post and no scheme of selection had been followed at the stage of initial engagement in the year 2001-02. In a nutshell, it is contended that the appointment/engagement of the petitioner at the initial stage was by adopting a pick and choose method and any service rendered thereafter on such basis would not enure to his benefit and to claim benefit of regularization.

Counsel for the parties have been heard at length and pleadings on record have been perused.

Perusal of the impugned order itself discloses the basis for denial of benefit of regularization to the petitioner. It has been specifically recited therein that the engagement of the petitioner as a Computer Operator-cum-Clerk was at the hands of the Executive Engineer, Construction Division No.2, Batala and without following the norms prescribed for appointment to a public post. In the impugned order, it has also been noticed that no public notice or advertisement was issued in the

newspaper, whereby applications had been invited from the public at large so as to give a chance to all eligible candidates to participate in a process of selection and appointment.

During the course of arguments, Mr. Aulakh, learned counsel representing the petitioner would concede that no notice had been issued at the stage of initial engagement/appointment. What clearly flows therefrom is that no qualifications, eligibility conditions/criteria had been followed at the time of engagement of the petitioner. This Court would have no hesitation in observing that the initial engagement of the petitioner as a Computer Operator-cum-Clerk was not in terms of following a scheme of selection as per mandate under Articles 14 and 16 of the Constitution of India.

Counsel appearing for the petitioner has also not adverted to any document/material on record to show that the initial engagement of the petitioner was against a regular sanctioned post. The impugned order to the contrary specifically states that even as of date, there is no sanctioned post of Computer Operator-cum-Clerk available in the office of Executive Engineer, Construction Division No.2, Batala.

Even as regards the Policy dated 18.03.2011 at Annexure P-3 reliance upon which was placed by counsel appearing for the petitioner, the benefit of regularization was to considered only qua such employees who were working against permanent post and whose initial appointments were made on the basis of prescribed essential qualifications/eligibility. As has been noticed herein above, the petitioner does not fulfill such parameters and as such, cannot claim to be covered under the Policy dated 18.03.2011 at Annexure P-3.

For the reasons stated above, this Court does not find any infirmity in the impugned order dated 24.06.2014 passed by respondent No.1 declining benefit of regularization in service to the petitioner.

Petition is, accordingly, dismissed.

12.07.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| (i) | Whether speaking/reasoned? | Yes/No |
| (ii) | Whether reportable? | Yes/No |