

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.14229 of 2017

Date of Decision: August 22, 2017

Satpal Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sanjiv Gupta, Advocate, for the petitioner.

Amol Rattan Singh, J. (Oral)

The petitioner in this case seeks regularization from a date when persons who had joined on daily wages after him have been regularized, i.e. w.e.f. 1993.

The petitioner is stated to have joined as a Mali on daily wages, who continued working with the respondent-department from 1986 to 1992, when his services were terminated.

He raised an industrial dispute leading to an Award passed in his favour on 05.09.1997 (as stated), by which he was ordered to be reinstated in service, with continuity of service and was also ordered to be paid 50% backwages for the interim period.

Pursuance to the aforesaid Award, the petitioner was first given appointment on daily wages vide an order dated 30.05.2001 (Annexure P-7) and was thereafter eventually granted "regularization in service" w.e.f. 06.09.1997, i.e. from one day after the Award of the Labour Court, vide an

order dated 11.09.2002 (Annexure P-8).

On the last date of hearing, this Court had asked learned counsel for the petitioner as to how this petition would be maintainable almost 15 years after the order of regularization was passed on 11.09.2002, in terms of the judgment of the Supreme Court in **B.S. Bajwa and another v. State of Punjab and others**, 1998 (1) SCT 670 (SC).

In response thereto, Mr. Gupta relies upon a judgment of a coordinate Bench of this Court in **Sukhchain Singh v. State of Punjab**, 2017 (3) SCT 213, wherein the petitioner in that case had sought a deemed date of promotion to the post of Lecturer in Punjabi from the date that his juniors were promoted, such promotion to the juniors having been granted in the year 1993 and petitioner in that case having approached this Court only in the year 2013, i.e. about 20 years later.

He further relies upon a judgment of a Division Bench of this Court in **Jagjit Singh Sandhu v. State of Punjab**, 2000 (1) SCT 991, wherein the issue was inter se seniority between direct recruits and promotees.

Though in the said judgment, the judgment in B.S. Bajwa case (supra) has also been referred to, however, in the opinion of this court, in that case, the particular issue was of seniority *en-masse* in a particular cadre, and therefore the situation was not similar to the one in the present case, where a single petitioner is seeking a change of date of regularization, 15 years after he was regularized with effect from a particular date.

Be that as it may, Mr. Gupta submits that no promotions have

been effected, in the cadre of Malis, in the respondent-department in the said period and in fact, as contended, not even a seniority list has been drawn up.

In respect of his grievance, the petitioner is stated to have got a legal notice issued to respondents no.1 and 2, a copy of which has been annexed as Annexure P-9 with the petition.

In response thereto, respondent no.2 has replied to the petitioner, stating that in the absence of record available in his office, pertaining to the services of one Preeto, also a Mali (stated to be junior to the petitioner), no decision could be taken.

It is also stated therein that the relevant record had been summoned from the District Horticulture Officer, Jind.

Consequently, without making any comment on the rights of the petitioner to a date of regularization prior to that of his juniors at this stage, the writ petition is disposed of with a direction to the competent authority amongst the respondents to take a decision on the aforesaid legal notice of the petitioner by passing a speaking order within a period of three months from the date of receipt of a certified copy of this order, after inspecting the record.

However, it is made absolutely clear that this order is being passed only on the contention specifically made that neither has any promotion of any other junior person been made from the post of a Mali, nor in fact, as per the learned counsel, has even a seniority list been framed.

Hence, if a seniority list has already been framed more than 5

years ago, showing the petitioner to be junior to those whom he contends to be now senior to, or promotions have been made of any such persons, the petitioner shall have no claim to regularization from a date prior to those of his juniors, he having approached this Court 15 years after the order Annexure P-8 was passed.

August 22, 2017
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(Amol Rattan Singh)
Judge

Whether speaking/reasoned:	Yes
Whether reportable:	Yes