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

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Date of Decision : 20.04.2017

RAJ KUMAR

..... Petitioner

Versus

STATE OF HARYANA & ORS

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rakesh Nagpal, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

By this writ petition, the petitioner claims regularization from the date services of his junior were regularized.

Brief facts of the case are that the petitioner was appointed as Mali in December 1994. Suddenly his services were terminated. He raised an industrial dispute and by Award dated 06.10.2004, the termination order was set aside and the petitioner was directed to be reinstated in service with 50% back wages. That award was challenged by the respondents by way of CWP No. 2575 of 2006 which was dismissed. Services of the juniors to the petitioner were regularised in terms of the policy dated 1.10.2003. Since the petitioner was not given the said benefit, he has filed the present writ petition.

Learned AAG Haryana has, however, argued that all regularisation policies were withdrawn in the year 2007. Thereafter, in the

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year 2014, the government being cognizant of the anomalies position arising out of cases like the petitioner framed three policies. However, this Court stayed the operation of those policies.

In my opinion, this argument would not suffice. The claim of the petitioner rests on the jurisprudential premise that a benefit which has been granted to his juniors cannot be denied to him, and even if no policy had been framed in the year 2014, the claim of the petitioner would still be alive. In **Raj Kumar v. State of Haryana, 2015 (4) SCT 277**, this Court held as follows :-

“9. Ultimately, the Single Judge allowed the plea. Against that, the respondents filed LPA No.1903 of 2014, State of Haryana and others v. Jiyaji Sharma, wherein the Division Bench of this Court held as follows:-

“3. As we mentioned earlier the appellant was employed with effect from 19.08.1995. The termination of his services on 31.05.1996 were held to be illegal and he was reinstated in service . Thus, as on 31.09.2003, the respondent must be deemed to have been in service. Under the policy of 01.10.2003, the petitioner was entitled to have his services regularized. All other employees similarly situated whose services had not been terminated were in fact granted the benefit of regularization under the policy of 01.10.2003. The termination of the respondent's services having been held to be illegal and having been set aside, he must also be deemed to have been in service on 01.10.2003 and entitled to the benefits of the policy on par with the others. The petitioner cannot be denied the benefits of the policy on par with the others similarly situated for no fault of his namely and on account of the appellants having issued an illegal order of termination. The Supreme Court in Hari Nandan Prasad and another Versus Employer I/R to Mangmt. of FCI and another, held as

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follows:-

‘However, wherever it is found that similarly situated workmen are regularized by the employer itself under some scheme or otherwise and the workmen in question who have approached Industrial/Labour Court are at par with them, direction of regularization in such cases may be legally justified, otherwise, non regularization of the left over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Art.14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality by upholding Art. 14, rather than violating this constitutional provision’.

In the circumstances, this writ petition is allowed and the respondents are directed to consider the case of the petitioner for regularization of his services from the date services of his juniors (as mentioned in para 6 of the petition) were regularized. Necessary exercise be carried out within two months from the date of receipt of a certified copy of this order.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

20.04.2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No