

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23343 of 2016

Date of Decision: 17.02.2017

Punjab State Civil Supplies Corporation
Limited and another

... Petitioners

Versus

The Presiding Officer, Industrial Tribunal,
Amritsar and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gurmandeep Brar, Advocate,
for the petitioners.

Mr. Amarjit Singh, Advocate,
for the caveator-respondents.

RAJIV NARAIN RAINA, J.(Oral)

The learned Labour Court has returned a finding of fact that persons junior to the respondent-workmen were regularized while claimants were litigating against their termination praying for reinstatement etc.

Mr. Amarjit Singh, learned counsel appearing for the respondent-workmen draws attention of this Court to the findings of the learned Labour Court found paragraph 14 of the award found falling at page 47 to 49 of the paper-book. The contents are self speaking and paraphrasing might fail to bring out the impact on the mind and are therefore reproduced verbatim:-

“14. On the other hand on behalf of managements, RW1 Ashok Kumar has tendered his affidavit Ex.RW1, in which he has stated that he is working in the department of the last many years and his authority

letter is Ex.R.1. The General Secretary of Manav Kalyan Union is not competent person to file the present case on behalf of the workers. He has further stated that the workers on whose behalf the union is contesting the present case, are daily wagers and there is no government policy that workers can be regularized. The last regularized policy was for the term of workers, who joined the service in the year 1994. The record pertaining to it is Ex.R.2. In his cross examination, he has stated that he cannot tell whether in the year 2001 to 2003 there was policy to regularize the workers. He has admitted that in the notification Ex.R.2 at page no.6, there are instructions for regularization of the labourers. He has further stated that he has written to the department that the worker be regularized, but no action was taken by the department. He has admitted that in Ex.R2 at page no. 12 there is seniority list of Chowkidars and the names of these workers are also in the same. He has admitted that as per list, Harjinder Singh has joined on 24.03.1998. He was regularized. Sukhwinder Singh and Bakhsish Singh workers were regularized on the other [sic, 'order'] of the Hon'ble High court. He has further admitted that the workers, who have filed this case, are senior to the workers, who have filed this case, are senior to the workers who were regularized. Now, no post of Chowkidar is lying vacant. He further admitted that as per Ex.WX at page no.4, 22 posts of Chowkidars are still vacant. He further admitted that the workers, who were earlier employed in the year 1981 to 1983, were discharged in the year 1987 and they were again employed from 1994 to 1997.”

The Court is informed by the learned counsel for the respondent-workmen that not only one Harjinder Singh but there were others as well who got the benefit of regularisation the years 1998 and 2002 and who like the respondents were re-employed after termination.

There are 11 respondents in this petition. They were initially engaged as daily wage chowkidars by petitioner-PUNSUP. They were retrenched from service in 1994, 1995 and 1997. The dispute was espoused and raised by the union of workers with the management and referred in a single reference under Section 10 read with Section 2 (k) of the Industrial Disputes Act, 1947 for the benefit of 11 aggrieved workmen, respondents, in a joint demand notice served on PUNSUP. The Labour Court has awarded regularization from the date their juniors were regularized with back wages and regular pay scale for three prior years. The management has been directed to make payment of arrears to all the ten workmen along with interest at 6% per annum from the date of demand notice dated December 01, 2009 till its payment. The reference has been answered in favour of the workmen and against the petitioner. The reference itself was whether the 11 workmen mentioned in the demand notice are liable to be regularized. One of them was left out of the dispensation since he had attained the age of superannuation prior to the three years of the monetary relief allowed in the award as no relief could be granted to him.

Accordingly, the petition stands dismissed and the award of the Labour Court calls for interference on review is upheld.

(RAJIV NARAIN RAINA)
JUDGE

17.02.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*