

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

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CWP-26326-2015 (O&M)
Date of decision:02.05.2017

Jitender

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Deepak Sonak, Advocate for the petitioner.

Mr. R.K.Doon, AAG, Haryana.

P.B. Bajanthri, J. (Oral)

The petitioner has questioned the validity of order dated 13.04.2015 (Annexure P8) by which the Divisional Forest Officer, has rejected the petitioner's claim for regularization. The petitioner is stated to have been appointed on daily wage basis in the year 1991. His services were terminated on 30.11.2000. Feeling aggrieved by the order of termination, he had raised an industrial dispute. On 28.02.2011 Tribunal passed an Award in favour of the petitioner while setting aside the order of termination with continuity of service etc. Pursuant to the Industrial Tribunal Award the official respondents have taken back the petitioner for duty. Thus, the petitioner has sought for regularization of his services on par with the others who are similarly situated persons and so also persons

who are appointed in the year 1991 and such of those persons services have not been terminated and whose services have been regularized. Grievance of the petitioner has been rejected on 13.04.2015 while citing two decisions of the Supreme Court.

2. Learned counsel for the petitioner submitted that having regard to the judicial pronouncement in the matter of termination and Tribunal has held that the petitioner is entitled to continuity of service therefore the out of service period between 30.11.2000 till reinstatement is required to be taken into consideration for the purpose of extending service benefits. Since the award is that the petitioner is entitled for continuity of service. Thus, the Divisional Forest Officer while passing order dated 13.04.2015 has failed to appreciate the fact of continuity of service awarded by the Tribunal. Hence order dated 13.04.2015 is liable to be set aside.

3. Per contra, learned counsel for the respondents resisted the petitioner's claim stating that policy relating to regularization of service are revived and the new policy was introduced on 18.06.2014. Therefore, the petitioner cannot claim regularization under old policy. In respect of the new policy dated 18.06.2014 is the subject matter of Division bench. Hence the petitioner has not made out a case so as to interfere with the order dated 13.04.2015.

4. Heard learned counsel for the parties.

5. Having regard to the service particulars of the petitioner that the petitioner was appointed in the year 1991, his services were terminated on 30.11.2000 and a judicial order is in his favour insofar as setting aside the

order of termination with continuity of service etc. the petitioner is entitled for service benefits during the intervening period from the date of termination till reinstatement. If the said factual aspect is taken into consideration, the petitioner is entitled for regularization on par with others who have joined service in the year 1991 and later on their services have been regularized.

6. Learned counsel for the petitioner also pointed out that on 07.09.2015 the official respondents have regularized large number of daily wagers. In view of the above facts and circumstances, the order dated 13.04.2015 is set aside. Having regard to award passed by the Tribunal contention of the respondents may not be appreciable. New policy of regularization is not applicable, since continuity of service is awarded in favour of petitioner. The Divisional Forest Officer, Jhajjar, is hereby directed to reconsider the petitioner's claim for regularization with reference to the fact that he had judicial order relating to continuity of service during the period from date of termination i.e. 30.11.2000 till reinstatement and pass an appropriate order of regularization on par with the others.

7. The above exercise shall be completed within a period of 4 months from today.

02.05.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No