

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

215

**CWP No.9303 of 2016
Date of decision: 29.08.2017**

Kamlesh

....Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.R.S.Mamli, Advocate, for the petitioner.

Ms.Shruti Jain Goyal, AAG, Haryana.

Ms.Anu Dutta, Advocate, for
Mr.J.S.Mannipur, Advocate, for respondent No.5.

G.S. SANDHAWALIA, J. (Oral)

Petitioner seeks the benefit of regularization from the due date along with all consequential benefits, on account of the fact that many juniors have been regularized. It has been averred that the petitioner had joined in the Forest Department in the year 2000 and has been paid at DC rates and thus, claims regularization on the basis of the policy issued by the State.

The respondents, in their reply, have categorically stated that they never engaged the petitioner for any work even for a single day and therefore, she is not covered under any Government policy.

The said reply was filed on 27.10.2016. No replication has been filed to controvert the same. A period of more than 10 months have expired since then. Disputed questions of facts are arising as to whether the petitioner was ever in service or not as she herself has not attached any appointment letter or proof of service in support of her claim by way of annexures.

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-2-

In *Maharashtra State Road Transport Corporation and another Vs. Casteribe Rajya Parivahan Karmchari Sanghatana, 2009 (8) SCC 556*, the Apex Court has held that the Industrial Tribunal is empowered to grant permanency to the workers who are victim of unfair labour practice and once the same is established, affirmative action can be taken accordingly. The Apex Court in *Hari Nandan Prasad & another Vs. Employer I/R to Mangmt. Of FCI & another 2014 (3) JT 415*, followed that view and has held that regularization can also be enforced by the Industrial Tribunal.

Resultantly, since disputed questions of facts are arising and since the petitioner has an alternative remedy available, the present petition is disposed of, with the liberty afore-stated.

29.08.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No