

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.14524 of 1997(O&M)

Date of Decision:16.2.2018

Parkasha @ Teka

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr.Rakesh Nagpal, Advocate for the petitioner

Mr.Harish Rathee, Sr.DAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

1. To cut the cackle and get to the horses, this petition deserves to be allowed by reason of long service rendered by the petitioner in the Forest Department as a daily wager before and after the interim order dated 15th January, 1998 was passed in this case and status quo with respect to the services of the petitioner was ordered to be maintained by the division bench. It is not disputed that the petitioner has continued under the status quo order. Be that as it may, on 22nd November, 2017, the following interim order was passed:-

“Present: None for the petitioner

Ms.Shruti Jain Goyal, AAG, Haryana

State Counsel prays for time to find out the latest status quo the issue of regularization of the petitioner since the impugned order was passed way-back on 12.08.1997 (Annexure P-9) and thereafter, various regularization policies have been in force. Specific affidavit be filed as to whether the petitioner has been granted any subsequent benefit of regularization.

List on 11.01.2018.”

2. In response to the court query, an affidavit dated 8th January, 2018 has been filed by the Divisional Forest Officer, Seed Collection Division, Pinjore in which it is averred that after the passing of the interim order of status quo, no order of regularization has been issued so far. The status quo order has been interpreted by the respondent department to mean that its officers should keep their hands off the case file of the petitioner for regularization of his service. To some extent I can understand their fear. If that is the only impediment in the way toward regularization, then by this order it is removed and it is directed that the case of the petitioner shall be considered for regularization under the policy in force next after passing of the interim order of status quo dated 15th January, 1998.

3. The factual disputes tried to be raised by the department in contesting the petition relate to the years 1991 to 1995 where there are alleged to be stray months of the year in which the presence of the petitioner on the attendance sheets are either recorded in the name of Parkasha @ Pargassa @ Teka @ Tiku and his father's name Chandu @ Ram Chander @ Chandu Ram. Entries in the sheets, wherever they are, authentic or not are certainly not in the hand of the petitioner, and therefore, not binding on an unlettered Mali in the Forest department. These are minor discrepancies about the identity of the workman and deserve to be ignored. I have no doubt that these sobriquets are names or nicknames of one and the same persons and therefore, the dispute being raised is only for the sake of refutation to defeat the just claim of the petitioner. It may be noted that the petitioner has served 30 years as a Mali in the Forest Department and continues to toil.

4. For the reasons stated above, this petition is allowed. The order dated 12th August, 1997 (Annex. P-9) is set aside. The respondents are directed to consider the case of the petitioner for regularization by passing an appropriate fresh order in the light of this judgment from the first policy issued after the status quo order. Also the petitioner shall be entitled to the minimum of the pay scale of a Mali from the date of interim order dated 15th January, 1998 and till the passing of this order, in view of the decision of the Supreme Court in *State of Punjab and others vs. Jagjit Singh and others*, (2017) 1 SCC 148. However, the full pay and allowances of Mali will be admissible from the date of this order. The difference of wages already paid to the petitioner in all these years will be adjusted against the minimum of the pay scale. These directions are issued by way of moulding the relief to balance the interests of both parties. The order in compliance be passed within six weeks from the date of receiving of a certified copy of this order. Arrears of money can wait for four months thereafter.

16.2.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No