

**2061 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.17630 of 1995 (O&M)

Date of Decision: 05.02.2018

Lal Chand

..... Petitioner

Versus

Bhakra Beas Management Board, Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE P. B. BAJANTHRI

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

Mr. Tajender K. Joshi, Advocate
for the respondents.

P. B. BAJANTHRI J. (ORAL)

1. In the instant petition, petitioner has prayed for the following
reliefs:-

“a) a writ in the nature of mandamus be issued to the respondents directing them to regularise the services of the petitioner as Welder from the date on which the services of other employees junior to the petitioner were regularised i.e. from 1.1.89.

b) Appropriate writ, order or direction may also be issued to the respondents to allow all the benefits to the petitioner w.e.f. 1.1.89 which are admissible to the regular employees of the Board.”

His entire case for the purpose of regularization in the cadre of Welder is based on the Labour Court award and some other documents, wherein wrongly designation of the petitioner has been shown as Ex-Welder instead of Ex-T-Mate.

3. The petitioner is trying to take undue advantage of such error committed by the Court and he is seeking for regularization in the post of Welder and seeking consequential benefits.

4. The petitioner has nor produced any material to show that he had been appointed as a Welder. No doubt, while he was working as a T-Mate, he has been assigned work of tack-welding as a temporary measure. In other words, while assigning the duties of the tack-welding, he has not been posted as a Welder, so as to claim any service benefits in the cadre of Welder.

5. Learned counsel for the petitioner submitted that he had the requisite qualification prescribed for the post of Assistant Welder like matric with minimum five years experience of welding. He pointed out from a certificate that he had five years of experience as a Welder in a Private Firm. Merely having qualification for any post, employee cannot seek regularization against the post unless and until he has been appointed to such post. Undisputably, petitioner was never appointed on ad hoc or regular to hold the post of Assistant Welder or Welder so as to claim regularization against the Welder post. He has no right to hold post of Welder with reference to mentioning the designation in the award or any other document. Thus, the petitioner has not made out a case to seek regularization against the post of Welder.

6. At this stage, learned counsel for the petitioner relied on the Hon'ble Supreme Court's decision in the case of “***Durgapur Casual Workers Union and others vs. Food Corporation of India and others***” (2015) 5 SCC 786, to the extent that no plea was taken by the respondent

before the State Government or before the Tribunal that initial appointment of workman were illegal. The above principle is not applicable for the reasons that the petitioner was never appointed to the post of Welder or Assistant Welder on ad hoc basis so as to claim regularization and to contend that his initial appointment was illegal unless and until he is appointed to the post of Assistant Welder or Welder. Accordingly, decision cited is distinguished on factual aspects.

Accordingly, the petition stands dismissed.

(P. B. BAJANTHRI)
JUDGE

05.02.2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No