

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 15.01.2018****CWP No.18656 of 2001**

Gulab Singh

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Manoj Chahal, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

1. The petitioner joined service as Water Carrier on 20.05.1988 on daily wage basis. His services were terminated on 31.03.1989. Aggrieved by his termination, the petitioner approached this Court in CWP No.6244 of 1989. The writ petition was allowed vide order dated 28.08.1989 and he was taken back in service on 01.05.1990. Thereafter, petitioner represented that his services be regularized as per policy decision dated 27.05.1993 according to which, the daily wager who has rendered five years of service till and in service on 31.03.1993 is entitled for regularization. In the meantime, the policy decision dated 27.05.1993 was replaced by policy decision dated 18.03.1996, which provides that ad hoc/daily wage employees, who have put in three years services and is in service as on 31.01.1996 is entitled to be regularized. The petitioner was engaged on 20.05.1988 and disengaged on 31.03.1989 and thereafter taken back to employment on 01.05.1990, as such had not completed 5 years of service.

Therefore, his case does not fall under policy decision dated 27.05.1993.

Finally, the services of the petitioner were regularized w.e.f. 01.02.1996.

2. Mr. Chahal admitted that his client was two months' short for claiming regularization in terms of policy decision dated 27.05.1993, which was later on amended on 18.03.1996. In view of this admitted position the claim cannot be decreed and reinforces the view that cause of action accrued on 18.03.1996, when the petitioner was regularized w.e.f. 01.02.1996 and not from any anterior date. Therefore, legal recourse should have been taken at least by May, 1999.

3. Mr. Chahal relies on Clause (ii) of the notification dated 11.05.1994 issued by the Chief Secretary to Government of Haryana (Annex P-2) to submit that the Government had decided that daily wage employees, who had worked for five years and have a minimum period of 240 days service in each year should be regularized, but the break in service in any year should not be more than one month at a time. This is only a formula adopted for giving continuity, but this does not mean that the petitioner has a license to approach the Court at any time of his choice after the date of expiry of limitation to bring a suit in case the order dated 21.05.1996 were challenged. Once limitation starts to run, nothing will stop it except if case falls in the exemptions in the Act or in a service matter when a statutory remedy of appeal is provided against adverse order, then limitation would be postponed till the decision by the competent authority. Therefore, the non-statutory representation/appeal filed by the petitioner and decision thereon will be of no assistance to the petitioner even though the Transport Commissioner has rejected the same in 2001: [See for point of limitation case law in- Union of India & another Vs. M.M.Sarkar, (2010) 2 SCC 115;

C. Jacob Vs. Director of Geology & Mining of Ministry & another, (2009)
10 SCC 115 and State of Uttaranchal & another Vs. Shiv Charan Singh
Bhandari & others, (2013) 2 SCC 179]

4. For the foregoing reasons, there is no merit in this petition and the same is accordingly ordered to stand dismissed.

15.01.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*