

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 10977 of 2015 (O&M)

Date of Decision: 01.02.2018

Jagdeep Kumar

...Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. R.K. Arora, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

Heard the respective counsel.

The impugned order is liable to be quashed on the ground that it upholds the right of the petitioner to regularization of service under the Haryana State policy of 2003 and 2004 but declines relief only because the regularization policy of 16.06.2014 has been stayed by the Division Bench of this court in CWP No. 17206 of 2014, in case titled 'Yogesh Tyagi and others Vs. State of Haryana and others'.

The claim of the petitioner stands matured prior to the policy of 2014 and, therefore, stay of the policy can have no adverse effect on processing his case. It may be recorded that the period from March 1996 to March 1999, the petitioner was forced out of service by an illegal order of termination and he had to approach the Labour Court to get his termination order set aside.

The petitioner succeeded by the award dated 11.01.2005 (Annex. P-2) with the labour court setting aside the termination order and granting reinstatement to him. The period he remained out of service while litigating has to be treated by legal fiction as though his services were never terminated and he continued to work. That period is deemed to have been treated as on duty. Thereafter, on reinstatement the petitioner has been in service and has approached this court for setting aside the order dated 30.06.2017 denying him the benefit of regularization. The Superintending Engineer, P.W.D B& R Chandigarh Circle, Haryana by his impugned order fell in grave error in shelving the case of the petitioner to await the final outcome of the case in Yogesh Tyagi's case (supra). This is not the correct approach as the petitioner has a subsisting right under the earlier prevailing policy.

Accordingly, the petition is allowed, the impugned order dated 30.06.2017 is quashed. A direction is issued to the respondent to pass a fresh order in terms of this judgment and give to the petitioner all the consequential benefits. The arrears be calculated and paid to the petitioner within three months from the date of the receipt of a certified copy of the order.

(RAJIV NARAIN RAINA)
JUDGE

01.02.2018

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Whether speaking/reasoned : *Yes*

Whether reportable : *No*