

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 08.08.2018****CWP No.14504 of 2015**

Yad Ram

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. J.K.Goel, Advocate, f or the petitioner(s).

Ms. Shruti Jain Goyal, DAG, Haryana.

Ms. Nupur Choudhary, Advocate, for respondent No.5
in all cases except CWP No.18287 of 2015.Mr. Vishal Deep Goyal, Advocate, for respondent No.5
in CWP No.18287 of 2015.**RAJIV NARAIN RAINA, J.**

This order will dispose of the abovementioned writ petition as well as other connected writ petitions* tabulated at the foot of the order, as common questions of law and facts are involved in them, which can conveniently be decided by a common order.

The petitioners have accepted the notification dated 31.08.2009 (Annex P-9) for over six years before they approached this Court seeking its quashing. The petitioners are one hundred percent blind persons appointed as Caners on retainership basis for canning the chairs in the Government Department/Offices in the Department of Social Justice and Empowerment,

Haryana. For the purpose of rehabilitation, the Government took a decision on 31.08.2009 to adjust 128 Caners in the Indian Red Cross Society in the office of Haryana State Branch on the post of Master Trainer with wages equivalent to the 4th Class employees in the pay band of Rs.4400-7400+1300 G.P. in the basic salary of Rs.6050 per month and other benefits that are approved from time to time by the Indian Red Cross Society, Haryana Branch. To give effect to the policy decision, the notification was issued, which is under challenge in this bunch of petitions. The cadre would be diminishing.

The petitioners, who are aggrieved by their adjustment in the Indian Red Cross Society, Haryana Branch, claim that they should be made regular in Government services under the policies of regularization. To say the least, the approach by way of legal redress under Article 226 of the Constitution against the notification dated 31.08.2009 is highly belated.

It is asserted in the written statement put in to contest the case that the notification has been accepted by the petitioners without any objection/protest and they joined on the post of Master Trainer at District Level on the terms & conditions laid down therein. No representation or grievance towards the impugned notification was ever raised by the petitioners. The respondents assert that the petitions are highly time barred and deserve to be dismissed on the ground of huge delay and laches. Their status is neither of daily-wager nor ad hoc nor work-charged/casual employee of the State Government and they were not appointed against regular vacant posts. They were appointed/adjusted under a scheme of rehabilitation. They cannot claim regularization under any of the regularization policies (Annex P-3 & P-4). The respondents assert when the

petitioners were appointed as Caners, they were permitted to undertake private work as mentioned in clause (3) of the appointment letter (Annex P-1). It was on the persistent demand of various blind organizations of the State to appoint and give them regular pay scales that the matter was considered. Keeping in view this demand, it was decided by the Government during the year 2009 that 128 blind persons working on retainership basis at Block Levels be absorbed as Master Trainers in the District Red Cross Societies in the State. The petitioners have been given regular appointments in Red Cross Societies. Their retrospective regularization in the absence of any vacant regular sanctioned post available at that time and after the absorption of the petitioners as Master Trainer with the District Red Cross Society is not legally tenable. There is no caning work being carried out in the Government offices, as caning furniture has been replaced with other substitute furniture. Even the claim against policies dated 18.03.1996 and 01.10.2006 with the gap of almost one or two decades at the time of filing of the petition is inordinately belated. Their services in Red Cross Societies are not under threat, as assured by the respondents at the time of hearing. Their salaries are permitted by grant-in-aid by the respondents and the aid would continue till they retire. The State has been releasing its share of Contributory Provident Fund (CPF) at the rate of 10% of the basic pay in the accounts of each of the petitioners.

The reliance placed by the petitioners on orders passed in CWP No.14365 of 1999 titled 'Birbal Dass & others Vs. State of Haryana & another' rendered by a learned Single Judge on 12.04.2002 was a decision based on junior Caners being regularized. It was stated by the respondents therein that there were 18 sanctioned posts of regular Caners at Headquarter

level and district headquarter level and the recruitments were made only amongst the Caners appointed on retainership basis strictly in accordance with their seniority. The judgment was rendered 16 years ago and much water has flown under the bridge and the law on regularization is much refined thereafter especially with the pronouncement in Secretary, State of Karnataka & others Vs. Umadevi & others, (2006) 4 SCC 1 [CB]. No affirmative material has been placed on record to conclusively support the plea of discrimination in these petitions. If there are 22 regular sanctioned posts i.e. 3 meant for Headquarter and the remaining are meant for District Officers, then certainly 168 blind persons cannot be adjusted thereon without creation of posts. The Bench appears to have proceeded perhaps on the assumption that the petitioners before the Court were government employees. The State could not point out this vital difference. However, much one is sympathetic to the petitioners their claim cannot be accommodated presently under the judgment dated 12.04.2002 or at the time of filing of these petitions.

It has been explained in Para.8 of the written statement filed by the State that those petitioners whose names were registered on or before 31.12.1987 in the Employment Exchanges in Haryana were decided to be given regular appointments. During the year 1988, it was decided by the Government to launch a special recruitment drive to provide employment to the blind persons whose names are registered in various employment exchanges of the State up to 31.12.1987. The number of such registered persons was 267 and it was, therefore, decided by the Government that it would exhaust the existing list first by providing employment to those blind persons whose names were on the then current list. It has been denied that

the petitioner is junior to the blind person/s whose name was in the list dated 31.12.1987 of the Employment Department is/were given employment. No replication has been filed to controvert this fact, which is, therefore, accepted as correct. It has further been averred in the written statement that there was no question of fixing any seniority inter se of members of service in Group-D, when the petitioners did not belong to a regular cadre.

In view thereof, the claim of the petitioners is not only belated, but is not supported by material/merit, as they have never been government servants prior to their adjustments in the Indian Red Cross Society, Haryana Branch. In the matter of policy, the courts would not interfere unless a fundamental right has been apparently infringed to a degree calling for interference.

Consequently, I find no merit in this bunch of petitions and would dismiss them.

08.08.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No

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Sr.No.	Case No.	Parties Name
1.	CWP No.11088 of 2015	Parshu Ram Pandey (deceased) through his LRs Vs. State of Haryana & others
2.	CWP No.15544 of 2015	Chiman lal Vs. State of Haryana & others
3.	CWP No.15747 of 2015	Sanwat Singh Vs. State of Haryana & others
4.	CWP No.15749 of 2015	Bhagwant Vs. State of Haryana & others
5.	CWP No.15762 of 2015	Harbhajan Singh Vs. State of Haryana & others
6.	CWP No.15853 of 2015	Malik Singh Vs. State of Haryana & others
7.	CWP No.16019 of 2015	Anand Swaroop Akela Vs. State of Haryana & others
8.	CWP No.16020 of 2015	Attar Singh Vs. State of Haryana &

		others
9.	CWP No.16082 of 2015	Ramesh Pal Vs. State of Haryana & others
10.	CWP No.17571 of 2015	Bhim Singh Vs. State of Haryana & others
11.	CWP No.17554 of 2015	Kanwar Lal Vs. The Financial Commissioner –cum-Principal Secretary Haryana, & others
12.	CWP No.17629 of 2015	Raj pal Vs. State of Haryana & others
13.	CWP No.18268 of 2015	Narbir Singh Vs. State of Haryana & others
14.	CWP No.18287 of 2015	Bijender Singh Vs. State of Haryana & others
15.	CWP No.18304 of 2015	Subhash Chand Vs. State of Haryana & others
16.	CWP No.18306 of 2015	Gobind Ram Vs. State of Haryana & others
17.	CWP No.18313 of 2015	Bhishan Kumar Vs. State of Haryana & others
18.	CWP No.18682 of 2015	Jagdish Kumar Vs. State of Haryana & others
19.	CWP No.18701 of 2015	Ram Singh Vs. State of Haryana & others
20.	CWP No.19441 of 2015	Bal Ram Vs. State of Haryana & others
21.	CWP No.19447 of 2015	Dharampal Vs. State of Haryana & others
22.	CWP No.19735 of 2015	Sohan Lal Vs. State of Haryana & others
23.	CWP No.21472 of 2015	Rajbir Vs. State of Haryana & others
24.	CWP No.21473 of 2015	Sudarshan Lal Vs. State of Haryana & others
25.	CWP No.21474 of 2015	Karambir Singh Vs. State of Haryana & others
26.	CWP No.21985 of 2015	Roshan Lal Dahiya Vs. State of Haryana & others
27.	CWP No.21990 of 2015	Naresh Kumar Vs. State of Haryana & others
28.	CWP No.22041 of 2015	Kiran Pal Vs. State of Haryana & others
29.	CWP No.22069 of 2015	Surinder Kumar Vs. State of Haryana & others
30.	CWP No.22106 of 2015	Madan Lal Vs. State of Haryana & others
31.	CWP No.22144 of 2015	Charan Singh Vs. State of Haryana & others
32.	CWP No.22381 of 2015	Balram Vs. State of Haryana & others
33.	CWP No.23011 of 2015	Maya Vs. State of Haryana & others
34.	CWP No.23016 of 2015	Mahinder Singh Vs. State of Haryana & others
35.	CWP No.23056 of 2015	Balraj Vs. State of Haryana & others
36.	CWP No.23057 of 2015	Dhanno Kumari Vs. State of Haryana & others
37.	CWP No.23058 of 2015	Dilbag Singh Vs. State of Haryana &

		others
38.	CWP No.23059 of 2015	Satbir Singh Vs. State of Haryana & others
39.	CWP No.23127 of 2015	Kanwar Singh Vs. State of Haryana & others
40.	CWP No.23130 of 2015	Sindhu Vs. State of Haryana & others
41.	CWP No.23253 of 2015	Ghanshyam Vs. State of Haryana & others
42.	CWP No.23259 of 2015	Mahabir Singh Vs. State of Haryana & others
43.	CWP No.23294 of 2015	Ram Sanjeevan Vs. State of Haryana & others
44.	CWP No.23357 of 2015	Bansi Lal Vs. State of Haryana & others
45.	CWP No.24370 of 2015	Suman Bhandari Vs. State of Haryana & others
46.	CWP No.24390 of 2015	Rajwati Vs. State of Haryana & others
47.	CWP No.24670 of 2015	Vaijanti Anand Ram Singare Vs. State of Haryana & others
48.	CWP No.24815 of 2015	Shanti Devi Vs. State of Haryana & others
49.	CWP No.24833 of 2015	Jagdish Chander Vs. State of Haryana & others
50.	CWP No.24835 of 2015	Satinder Kumar Vs. State of Haryana & others
51.	CWP No.24853 of 2015	Azad Singh Vs. State of Haryana & others
52.	CWP No.24874 of 2015	Anil Kumar Vs. State of Haryana & others
53.	CWP No.3514 of 2016	Nirmla Mehta Vs. State of Haryana & others
54.	CWP No.3541 of 2016	Mani Ram Vs. State of Haryana & others
55.	CWP No.3605 of 2016	Usha Rani Kathuria Vs. State of Haryana & others
56.	CWP No.3699 of 2016	Rakesh Mehra Vs. State of Haryana & others
57.	CWP No.3703 of 2016	Sushila Devi Vs. State of Haryana & others
58.	CWP No.3783 of 2016	Bimla Vs. State of Haryana & others
59.	CWP No.3818 of 2016	Ram Karan Vs. State of Haryana & others
60.	CWP No.4841 of 2016	Vijay Kumar Vs. State of Haryana & others
61.	CWP No.6080 of 2016	Raghubir Vs. State of Haryana & others
62.	CWP No.22368 of 2016	Dharam Pal Vs. State of Haryana & others
63.	CWP No.22752 of 2016	Mohamad Rayis Vs. State of Haryana & others

08.08.2018

[RAJIV NARAIN RAINA]
JUDGE