

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 10237 of 2017

Date of decision : August 28, 2018

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Narender Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Hitesh Pandit, Addl.A.G., Haryana.

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RITU BAHRI, J.

Petitioner is seeking regularization of his services under 1993/1996/2003 policy from the date persons similarly placed as well as juniors to the petitioner have been regularized.

Briefly stated, the facts of the case are that the petitioner was appointed on daily wage basis in the respondent-Department in February 1987. The services of the petitioner were terminated by the respondent on 1.11.2002. Petitioner raised an industrial dispute before the Labour Court-I, Gurgaon against the illegal termination of his services. During the pendency of the dispute, he had been reinstated by the respondent-

Department in January 2005. However, as per the decision of the labour Court, the relief was declined to the petitioner and the reference was decided against the petitioner vide award dated 07.10.2010. Being aggrieved from the award passed by the Labour Court, petitioner approached this Court by filing CWP No. 2669 of 2012. This Court vide order dated 30.9.2015 (Annexure P-1) set aside the award and partially allowed the writ petition and the petitioner was held entitled for continuity of service and 50% back wages. The petitioner is now claiming regularization as per policies framed by the Govt. of Haryana on 27.5.1993, 7.3.1996, 18.3.1996 & 1.10.2003 (Annexures P-2 to P-4) as the similarly situated employees have already been regularised as per the said policies. As per the petitioner two daily wage similarly situated employees as well as juniors to the petitioner namely, Vijay Kumar son of Sh. Amar Singh and Neki Ram son of Sh. Man Singh have been regularized vide office order dated 13.5.2016 (Annexure P-5) w.e.f 11.10.1993. As per the information received under RTI (Annexure P-8), more than 100 employees were regularized after the judgment in the case of *State of Karnataka vs. Uma Devi and others 2006 (4) SCC (1)*. Vide Instructions dated 10.2.2011 (Annexure P-9), the Department issued directions to all field officers to send those cases in which regularization was to be made prior to 2006 but due to some reasons the same cannot be made. The petitioner is seeking benefit of regularization. Hence the present writ petition.

The respondents have placed on record the notification dated 10.6.2004 (Annexure R-1) to show that the petitioners were engaged as

labourers on daily wage basis purely on temporary basis in January 1993 in the Social Forestry Project which came to an end on 10.6.2004. Thereafter, the petitioner was freshly engaged in January 2005 on another temporary scheme. The petitioner is still on temporary work. Moreover he was not appointed against any kind of post in the Department and therefore, the petitioner is not entitled for regularization of his services.

This stand of the respondent is liable to be rejected keeping in view that this Court had allowed the writ petition filed by the petitioner vide judgment dated 30.9.2015 (Annexure P-1). This judgment has attained finality as no LPA against the said judgment had been filed. Being appointed in 1993, the petitioner has a right to be considered for regularization as per the policy dated 1.10.2003 (Annexure P-4). This aspect has been considered by this Court in the case of **Suresh Chand and another vs. The State of Haryana and others** bearing CWP No. 22743 of 2013 decided on February 16, 2016. As the present petition is squarely covered by the judgment in the case of **Suresh Chand's case (supra)**, present petition is allowed. The services of the petitioner are ordered to be regularized in terms of the State Government policy dated 1.10.2003 with all consequential benefits.

August 28, 2018
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No