

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.1086 of 2018
Date of Decision: 19.01.2018**

Raj Kapoor and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

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

Present: Ms. Abha Rathore, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J. (Oral)

The Labour Court award was passed on October 14, 2003 reinstating the petitioners with continuity of service. Shortly before the three awards were pronounced on the same day the Government of Haryana had come out with the Regularization policy dated October 01, 2003. One of the conditions of the policy was that the employee should have completed 240 days in every year of service and there should not be a break of more than 30 days. The effect of the award is to create a fiction of continuity and, therefore, the impugned order passed by the Commissioner, Municipal Corporation, Panipat cannot be sustained in law because it introduces the concept of 240 days to deprive the petitioners from being brought on the regular cadre. The order has been passed blindly without due application of mind.

No useful purpose will be served in issuing notice of motion and await reply of the Corporation which will not improve the quality of the

order which is *per se* perverse and illegal.

As a result, the petition is partly allowed.

The impugned order dated September 07, 2017 (P-4) is quashed. The Commissioner, Municipal Corporation, Panipat is directed to pass a fresh order in accordance with law within 15 days from the date of receipt of certified copy of this order. In passing the fresh order the Commissioner would have due regard to the judgment passed by this Court in CWP No.27024 of 2013, *Jai Bhagwan v. State of Haryana and others* and connected cases decided on January 20, 2016 the text of which has been placed on record at Annex P-5. It may be noted that those five cases relate to the same Corporation where the claims of similarly situated persons have been allowed and their services regularized from the due dates. In the event of the claims being allowed, the consequential benefits be handed over to the petitioners.

(RAJIV NARAIN RAINA)
JUDGE

19.01.2018

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No