

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 19.02.2018****CWP No.2202 of 2016**

Ram Avtar & others

...Petitioners

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Suresh Kumar Kaushik, Advocate, for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

RAJIV NARAIN RAINA, J.

This case can be concluded easily by virtue of the successive interim orders passed from time to time. When notice of motion was issued on 03.02.2016, the following order was passed:

“Learned counsel inter alia contends that once award dated 20.01.2000 was answered in favour of the petitioners, they were entitled for regularization of their service in terms of notification dated 01.10.2003. However, the respondents in compliance of order dated 07.08.2015 passed in CWP No. 15548 of 2015 filed by the petitioners, the respondents have wrongly rejected the claim of the petitioners on the ground that Chief Secy Government of Haryana vide U.O dated 05.05.2015 has instructed that the matter pertaining to recent regularization policies was further placed in meeting of Council of Ministers held on 25.11.2014 to review all the regularization policies issued/received on or after 16.06.2014 in respect of Group B, C and D employees appointed/engaged on adhoc, contractual etc.

Learned counsel inter alia contends that the petitioners are only claiming the implementation of Labour Court award dated 20.01.2000, which was answered in favour of the petitioners.

Notice of motion for 20.07.2016.”

. When the matter came up on 18.01.2017, the following order was passed:

“Learned State counsel is directed to furnish necessary material whether the petitioner was working against the sanctioned post or not and further when the services of the juniors of the petitioners have been regularized why the services of the petitioners have not been regularized pursuant to the policy which was existing when the services of the juniors of the petitioners have not been regularized, In this regard all the material which are taken into consideration while regularizing the services of the juniors of the petitioners be placed on record.

List this matter on 23.3.2017.”

On 04.12.2017, this Court passed the following order in the main writ petition:

“Order dated 18.01.2017 has not been complied with in its entirety.

Accordingly, the Divisional Forest Officer (Territorial), Jhajjar shall be present in Court on the next date of hearing, to show cause as to why the order has not been complied with, as directed. He will also pay Rs.2500/- each to all the 4 petitioners, as costs.

List on 05.02.2018.”

When the matter came up for hearing before me on 05.02.2018, I passed the following order:

“Learned State counsel has brought four cheques of Rs.2500/- each in the name of the four petitioners.

Cheques have been handed over to Mr. Chaudhary for handing them over to his clients.

Mr. Sunder Lal, Divisional Forest Officer (Territorial) Jhajjar is present in Court. He has filed an affidavit dated 02.02.2018 which is taken on record.

List on 12.02.2018.

In case the matter is not sorted out in terms of the relief granted to the other persons similarly situated and in the light of order passed by the Divisional Forest Officer regularizing one Sh. Phool Kumar S/o Hari Singh, Village Kasni District Jhajjar in Group 'D' w.e.f. 01.02.1996 in regular pay-scale of Rs. 2550-3220, a copy of which order has been produced by Mr. Chaudhary and the same is taken on record as Mark 'A', then on the next date of hearing, proof be produced otherwise the Principal Conservator of Forests, Haryana will appear in Court in addition to Mr. Sunder Lal, Divisional Forest Officer, Jhajjar.”

Today, in compliance of the interim order dated 05.02.2018, Mr. S.M.Somashekhar, Principal Conservator of Forests, Haryana is present in Court along with Mr. Sunder Lal, Divisional Forest Officer (Territorial), Jhajjar. The resistance put up by the Department to obstruct relief to the petitioners is awfully feeble and not legally tenable.

All the petitioners have been working as Labourer/Mali on daily wages for very long. Petitioners No.1 & 2 were appointed in the year 1982, while petitioner No.3 and petitioner No.4 were appointed in the year 1983 and 1995 respectively. The services of the petitioner No.1 and petitioner No.2 were terminated in the year 1995 and 2003 respectively. Against their illegal termination, they approached the Labour Court and returned with the Awards of reinstatement dated 20.01.2000 and 11.05.2006 respectively. Since the services of petitioners No.3 & 4 were never

terminated they continued from the initial dates. They have not litigated except by way of the present petition as co-petitioners with the other two.

The Haryana Government issued policy on 01.10.2003 that those daily wagers, who have completed 3 years of service on 30.09.2003 and were in service on 01.10.2003 are entitled to regularization. However, no relief was granted to the petitioners by the Department. On 14.10.2006, the services of persons junior to the petitioners were regularized. Petitioners No.1 & 2 have secured orders of reinstatement and continuity of service and are deemed to be in service as though the termination orders were never passed. Juniors, who have been appointed in 1992, 1993 & 1994, have been named in para.5 of the petition and their services have been regularized w.e.f. 01.10.2003 by the forest department.

The only reason for denying regularization to the petitioners, as mentioned in the written statement, is that the policy dated 18.06.2014 has been stated by the Division Bench vide interim order dated 02.09.2016 passed in CWP No.17206 of 2015 titled 'Yogesh Tyagi & another Vs. State of Haryana & others' and the matter is pending. With due deference to the proceedings pending in *Yogesh Tyagi's* case, the petitioner have an antecedent right of regularization on par with their juniors and to prevent unfair discrimination, their services have also to be considered for regularization on par with their juniors. The awards of the Labour Court give them deemed continuity taking their services back to 1982 etc. and, therefore, time periods have to be assessed continuous from the date of appointment. If the Class IV employees junior to the petitioners have been regularized and whose services were not terminated, the petitioners have to

be placed on par with them to tune the rights of the petitioners with Article 14 of the Constitution of India. See: Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 (Para 39).

Accordingly, the instant petition is allowed. The impugned order dated 24.11.2015 (Annex P-5) is quashed. A direction is issued to the respondents to consider the cases of the petitioners for regularization w.e.f. the date when juniors were brought on regular cadre as per policy and to grant them the same relief with all consequential benefits flowing there from. Let the consideration take place within two months from the date of receiving of certified copy of this order.

19.02.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>