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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-2361-2016 (O&M)
Date of decision: 31.08.2018**

Arun Raheja**...Petitioner****Versus****State of Haryana and others****...Respondents****CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. AG, Haryana.

Ritu Bahri, J. (Oral)

The petitioner is seeking quashing of order dated 08.01.2016 (Annexure P-7) passed by respondent No. 2 whereby his claim of granting benefit of continuity of service by counting the break period from 1997 to 2003 on his reinstatement has been denied.

The petitioner was appointed on contractual basis (89 days) as Science Mistress (Science Teacher) on 30.01.1997 as per his appointment letter (Annexure P-1). He was relieved on 02.05.1997 and again joined on 13.10.1997. He was relieved on 18.12.1997 and on 22.12.1997, he again joined. Thereafter, his services were regularized as per Policy dated 01.10.2003 (Annexure P-2). The grievance of the petitioner is that once his service has been regularized then the break in service has to be condoned and the petitioner cannot be denied continuity of service and if there is any break in the service that should be condoned. The petitioner has referred to the judgment of this Court dated 05.04.2010 rendered in case of *Naseeb Singh and other Versus State of Haryana and others in CWP No. 1777 of 2009* (Annexure P-3) wherein similar benefit of continuity of service was sought for by some of the employees and this Court issued directions to the respondent-authority to decide legal notice for granting continuity of

service to some of the employees. The respondents vide order 05.04.2010, granted the benefit of continuity of service with all the consequential benefits except giving them salary for the period they did not work.

Upon notice, a written statement has been filed on behalf of respondents. Thereafter, the petitioner has approached this Court by way of CWP No. 4654 of 2015 which was disposed of on 17.08.2015 (Annexure P-6) to decide the legal notice within three months. The petitioner was given personal hearing by respondent No.2 and his claim was dismissed vide order dated 08.01.2016 (Annexure P-7). Upon notice, a reply has been filed by the respondents and the main plea taken is that the period before regularization cannot be considered under statutory services and after regularization of services, the petitioner has approached after the gap of 12 years when his services were regularized, as per notification dated 01.10.2003 (Annexure P-2). The writ petition should be dismissed keeping in view the delay and judgment passed by this Court in ***CWP No. 25957 of 2012; Krishan Kumar and others Versus State of Haryana*** decided on 16.01.2015.

After coming to the contents of the writ petition and written statement, the case of the petitioner deserves to be allowed. Reference can be made to the judgment passed by this Court in CWP No. 1777 of 2009 (Annexure P-3) whereby the petitioners were working in Education Department and were appointed as S.S. Teacher, Math Teacher, Science Teacher on contract basis for a period of 89 days in the year 1997, subsequently, the petitioners were regularized in the year 2003 as per the Government Policy dated 03.10.2003. They were claiming benefit of continuity of service and the writ petition was disposed of to decide their legal notice within three months. Pursuant to the order passed by this Court in Annexure P-3. The Director Education vide order dated 25.08.2011 (Annexure P-4) after examining the record of the petitioners vide order dated 25.08.2011, those petitioners were granted benefit of continuity of service with all consequential benefits except giving them monetary benefits.

In the present case, on 04.09.2014, the petitioner sent legal notice within three years (Annexure P-5) for grant of similar benefit from the respondents. Hence, the case of the petitioner cannot be rejected on the ground that he is seeking this benefit after a gap of 12 years. It was the duty of the Department to grant parity to all its employees once they have granted continuity of service to one set of employees in CWP No. 1777 of 2009. Instead of granting abovesaid benefit while deciding his legal notice, vide impugned order dated 08.01.2016, they have rejected his case and the ground taken in the order is that the benefit, granted to the petitioner in CWP No. 1777 of 2009 is on account of a mistake and this would not confer any right upon the petitioner to get the same relief. In the written statement, the stand of the respondents is not that the benefit granted to the other petitioners in CWP No. 1777 of 2009 was granted to them as per mistake. The claim of the petitioner is denied only on the ground of delay of 12 years. It is not the case of the respondents that the benefits was granted wrongly to the other petitioners and the same has been withdrawn by them.

Hence, this petition deserves to be allowed. Ordered accordingly. The order dated 08.01.2016 (Annexure P-7) is set aside and the respondents are directed to pass a fresh order after going through the service record of the petitioner and pass appropriate order granting him benefit of continuity of service by counting the break with all consequential benefit except giving him monetary benefit for that period for which he has not worked. The exercise be completed within a period of four months.

31st August, 2018

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**(RITU BAHRI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No