

CWP No. 24238 of 2016

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 24238 of 2016

Date of decision : 8.10.2018

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Bhoop Singh and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Amit Kumar, Advocate for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

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RITU BAHRI, J.

The petitioners are seeking quashing of the order dated 27.7.2016 (Annexure P-4) vide which the representation of the petitioners was decided and the relief claimed by the petitioners was rejected by respondent no.3. The petitioners have further prayed that a direction to re fix the pay of the petitioners in the light of the orders Annexure P-1

(Colly.) be also granted.

The petitioners were appointed as drivers in the Transport Department of State of Haryana through employment Exchange on various dates i.e from 1981 to 1987. The services of the petitioners were regularized w.e.f the day they completed 240 days continuous service in the department as per Instructions dated 19.2.1979. After putting in more than 30 years of regularized satisfied service, respondent no.3 refixed the date of regularization and accordingly refixed their seniority as well as refixed their pay vide order dated 13.7.2009. Action of the respondents was challenged by the similarly situated conductors/drivers by way of filing CWP No. 15500 of 2009 titled as 'Bir Singh and others vs. State of Haryana and others' and the same was decided in favour of petitioners on 1.10.2012 (Annexure P-1) and, thereafter, many writ petitions were filed and the same were allowed by this Court (Annexure P-1 Colly.). State also preferred an LPA No.862 of 2012 titled, 'The State of Haryana and another vs. Kuldeep Singh and others' which was also dismissed by this Court vide judgment dated 2.7.2012. The petitioners filed CWP No.27450 of 2015 titled as 'Bhoop Singh and others vs. State of Haryana and others' before this Court. This writ petition was disposed of vide order dated 24.12.2015 (Annexure P-2) with a direction to respondents to take a decision on the representation submitted by the petitioners by passing a speaking order and after affording opportunity of hearing to the petitioners preferably within four months from the date of receipt of a certified copy of the order. In this backdrop, the impugned order dated 27.7.2016 (Annexure P-4) has been passed. A

perusal of the order shows that after being appointed on ad hoc basis, the petitioners were regularized. Details of the Instructions of the Govt. from time to time as mentioned in order dated 27.7.2016 (Annexure P-4) for regularization of ad hoc services are reproduced hereinasunder:-

<i>Sr. No.</i>	<i>Letter No. & date of the Government Instructions</i>	<i>Criteria</i>	<i>Remarks</i>
1	1682-92/A3/HAR dt. 19.02.1979	On completion of 240 days continuous service as on 19.02.1979	None of the petitioner completed required service
2	G.S.R.-3/Const./Art. 309/80 dt. 01.01.1980	On completion of 2 years continuous service as on 31.12.1979	-do-
3	G.S.R-3/Const./Art. 309/80 dt. 19.01.1984	On completion of 2 years continuous service as on 15.09.1982	-do-
4	20/22/84/-5GSI dt. 16.02.1987 & 6/4/905 GSI dated 28.4.1987	On Completion of 2 years continuous service as on 01.11.1986/30.09.1988	Applicable to petitioners nos. 1, 2, 7, 13, 15, 4, 10, 11, 1, 4, 16, 18 to 22, 5, 6, 8, 12, 17 -do-
5	G.S.R.3/Const. /Art. 3 09/91 dt. 28.02.1991	On completion of 2 years continuous service as on 31.12.1990	Applicable to petitioners No. 23 to 25
6	G.S.R.3/Const./Art.3 09/93 dt. 01.06.1993	On completion of 2 years continuous service as on 31.3.1993	--
7	6/38/95/95G-2GSI dt. 07.03.1996	On competition of 2 years continuous service as on 01.01.1996	--

The claim of the petitioners was rejected vide order dated 27.7.2016 (Annexure P-4) by holding that none of the employees qualified 240 days of service on 19.2.1979 and they have been regularized on their

term as per Instructions applicable in their respective cases and hence, they are not entitled for regularization on completion of 240 days service.

Counsel for the petitioners made an attempt to make reference to a judgment of this Court in the case of ***Jaimal Singh and others vs. State of Haryana and another (CWP No. 6315 of 1998)*** decided on 19.12.2011 and another judgment of this Court in the case of ***Randhir and others vs. State of Haryana and others (CWP No. 18777 of 2012)*** decided on 11.2.2016. In all the above said cases, the services of the ad hoc employees had been regularized in the year 1987-88 and subsequently as per the policy of 1.4.1993, the dates of regularization had been changed to their detriment by converting the dates of such regularization from the year 1993 in terms of the policy. The writ petitions challenging the same were allowed while observing that the policy which has been framed subsequently cannot be applied to the petitioners to their detriment to change the dates of their regularization, especially once this benefit flows from the direction of this Court. The judgment in ***Jaimal Singh's case (supra)*** has been upheld by this Court in ***Letters Patent Appeal No. 862 of 2012 titled, 'The State of Haryana and another vs. Kuldeep Singh and others'*** decided on July 2, 2012. It was held that since the services of the respondents already stood regularized in the years 1987-88, the subsequent policy dated 1.4.1993 which was a general policy meant to regularize services of ad hoc/contract/work-charge employees of different department could not be treated retrospectively in order to postpone the dates of regularization of services of the respondents. The said policy was meant to grant certain

benefits to the employees and not to adversely affect their conditions of service. The judgment in the case of *Jaimal Singh's case (supra)* has been followed by this Court in the case of *Bir Singh and others vs. The State of Haryana and others (CWP No. 15500 of 2009)* decided on *1.10.2012*.

However, in the present case, the initial regularization orders has been passed in favour of the petitioners in view of the Instructions 28.4.1987 and 28.2.1991. The dates of regularization of the petitioners have never been changed thereafter. The petitioners were held not entitled for regularization as per the policy dated 19.2.1979. Hence, the petitioners cannot claim parity as per the judgments (Annexure P-1).

In view of all that has been discussed above, there is no merit in the writ petition and the same is hereby dismissed.

8.10.2018
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No