

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2899 of 2014
Date of Decision: 29.01.2018

Sh. Ish Pal

...Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. Naveen Daryal, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana,
for the respondent.

RAJIV NARAIN RAINA, J. (Oral)

1. On February 10, 2015 this Court passed the following order:-

“The petitioner while setting up a claim as regards pay parity with his alleged junior has specifically averred in para 3 of the writ petition that his services were regularized w.e.f. 25.3.1985 and thereafter had even earned the benefit of annual increments.

Per contra, stand of the State is that the petitioner's services had been regularized only w.e.f. 31.3.1993. The assertion made on behalf of the petitioner as regards regularization w.e.f. 25.3.1985 has not met with any denial. It is not even the stand of the State that the previous order of regularization w.e.f. 25.3.1985 has since been withdrawn or that such benefit has been taken away subsequently.

As such, for a proper adjudication of the controversy raised in the instant petition, let a specific affidavit of the Superintending Engineer,

Mechanical Division, P.W.D. B&R, Karnal, respondent no.3, be filed within a period of six weeks to clarify the anomalous situation that has been noticed herein above.

List on 7.9.2015.”

2. The affidavit of Sh. V.B. Dahiya, Superintending Engineer Mech. Circle PWD B&R Br. Karnal dated October 15, 2015 deposes to the following effect:-

“1. That, above writ petition is pending in this Hon'ble Court and the same is now fixed for 26-11-2015.

2. That petitioner Sh. Ish Pal (Retiree) was appointed on temporary basis on the post of Cleaner for six months vide letter/order dated 12-03-1984 of the Executive Engineer, Mechanical Division PWD B&R Br. Karnal. Further services of the said petitioner was extended w.e.f. 13-09-1984 to 14-03-1985 vide Executive Engineer, Mech. Division PWD B&R Br. Karnal order No.1416 dt. 28.02.1985 (Annexure R-1), Order No.2053 dated 25.03.1985 (Annexure R-2), Order No.416 dated 05.09.1985 (Annexure R-3), Order No.5369 dated 08.09.1986 (Annexure R-4), Order No.4229 dated 22.07.1987 (Annexure R-5), Order No.4561 dated 16.07.1988 (Annexure R-6), Order No.3794 dated 28.07.1989 (Annexure R-7), Order No.3286 dated 22.06.1990 (Annexure R-8).

3. That the temporary services of the petitioner was extended w.e.f. 12.03.1984 to 31.03.1993 and services of Ish Pal was not regularized by Executive Engineer, Mech. Division PWD B&R Br. Karnal vide letter No.2053 dated 25.03.1985.

4. That services of petitioner was brought on regular cadre w.e.f. 31.03.1993 vide Superintending Engineer, Mechanical Circle PWD B&R Br. Karnal

*order No.7 dated 10.01.1995, entry to this effect exist
in service book in page No.14 (Annexure R-9).”*

3. Ms. Shruti Jain Goyal rightly argues that the date of regularization is March 31, 1993 and not March 25, 1985 due to multiple factors. First and foremost being that the petitioner was granted ACP scale w.e.f. April 01, 2003 on completion of ten years of regular service vide order dated April 20, 2004. This was acceptable to the petitioner as he did not challenge the date. This facet confirms that the petitioner was brought on regular cadre w.e.f. March 31, 1993. Still further, the petitioner was promoted as Auto Diesel Mechanic on August 11, 2006 by order dated August 10, 2006 by drawing his rights from the date of regularization on March 31, 1993 when he earned requisite experience to fit the criterion. Admittedly, the petitioner's next ACP fell due on September 01, 2016 counting time from the date of becoming a member of the service on regularization. Had the petitioner been in service on this date he would have been entitled to ACP on the post of Auto Diesel Mechanic.

4. In para.3 there is assertion as noticed in the interim order reproduced above that the petitioner was regularized on March 25, 1985 by the Sub Divisional Engineer, Karnal and thereafter he earned annual increments. This gray area has been creased out by the affidavit called by this Court where the date of regularization is shown as 1993. The petitioner has not produced an order of regularization in support of his assertion that his services were regularized on March 25, 1985. It also appears incongruous that the Sub Divisional Engineer, Karnal would be the authority to regularize a Cleaner. Hence no credence can be placed on the

stand of the petitioner claiming rights from March 25, 1985 and that too without documentary evidence not to mention huge lapse time. These are additional grounds to decline relief.

5. No ground to interfere in this petition. The same is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

29.01.2018
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Whether speaking/reasoned Yes

Whether reportable No