

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

CWP No. 3829 of 2014 (O&M)

Date of Decision: 18.09.2018.

Onkar Nath

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Vipin Mahajan, Advocate,
for the petitioner.

Ms. Sunint Kaur, AAG Punjab.

JITENDRA CHAUHAN.J.(ORAL)

By filing this civil writ petition, the petitioner seeks setting aside of order dated 06.07.2012 (Annexure P-11) passed by Conservator of Forests, Bist. Circle, Punjab, Jalandhar, vide which claim of the petitioner for regularization of services as Driver has been rejected.

The petitioner was engaged as Driver in February, 1995. His services were terminated with effect from 03.07.1999. The industrial dispute raised by the petitioner was decided in his favour vide Award dated 15.09.2004 (Annexure P-1) passed by Labour Court, Gurdaspur. It was held that juniors to the petitioner, namely, Nek Chand and Kuldeep Singh have been retained. The petitioner was reinstated in service with continuity of service and 75% back wages.

The Award passed by the Labour Court, Gurdaspur has attained finality

upto Hon'ble the Supreme Court. The State Government issued policy

dated 15.12.2006 (Annexure P-7) for regularization of daily wage employees who have completed 10 years of service upto December, 2006. The petitioner along with other employees had approached this Court by way of CWP-22752-2010 for regularization of their services in which directions were issued to the respondents to decide the claim of the petitioners. Vide impugned order, (Annexure P-11), claim of the petitioner for regularization was rejected whereas persons junior to the petitioner, namely, Nek Chand and Kuldip Singh were regularised.

On the other hand, the respondents in their reply have not denied the service of the petitioner from 1995 onwards but they have taken a plea that from 1995 to 1998 the petitioner was given breaks and he did not complete 240 days in one calender year during the aforesaid period. However, they admitted that from 03.07.1999 onwards, the petitioner has been working continuously. The factum of regularization of juniors have not been denied specifically.

Heard.

It is to be noticed that the petitioner was reinstated in service with continuity of service and back wages. The services of the petitioner from 1995 onwards has not been denied by the respondents, therefore, in this way, the petitioner has completed more than ten years of service upto 2006. Moreover, juniors to the petitioner, namely, Nek Chand and Kuldip Singh have been regularised. The petitioner being

senior cannot be denied the same relief. Consequently, the present civil writ petition is allowed. The respondents are directed to regularize the services of the petitioner as Driver in pursuance to policy instructions dated 15.12.2006 (Annexure P-7) from the date, he became eligible to be regularised. The necessary exercise be done within a period of two months from the date of receipt of copy of this order.

18.09.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No