

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No. 3180 of 2015

Date of Decision: 10.08.2018

Niranjan and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. Sandeep Thakan, Advocate,  
for the petitioners.

Mr. Harish Rathee, Senior DAG Haryana.

**RAJIV NARAIN RAINA, J. (Oral)**

1. When the matter came up for hearing on 23.02.2018, the following order was passed:

*The petitioners were engaged as Beldars in the respondent department, between 1.6.1994 to 1.8.1997, respectively. Their services were terminated by the respondent department, but the Labour Court, vide its awards, rendered on different dates, reinstated the petitioners with continuity of service and back wages. Concededly, the awards rendered by the Labour Court have since attained finality. Meaning thereby, each of the petitioners has rendered over 20 years of service as of now.*

*The limited grievance that they have is; that even though their claim for regularisation was duly forwarded by the*

*Executive Engineer, Bhiwani (Water Services Division) Bhiwani, to the Superintending Engineer, Lahoru, Water Services Circle, Bhiwani, but it continues to await consideration by the competent authority. On the contrary, vide order dated 20.8.2014 (Annexure P-4), the respondents have regularised the services of one Subhash son of Raghubir Singh, who too was appointed in the year 1997, and was identically placed as the petitioners. Likewise, services of Suresh and Rati Bhan were also regularised, vide order dated 21.8.2014.*

*Faced with this, learned State counsel prays for and is granted a week's time to furnish an affidavit, as to how, in the given situation, claim of the petitioners could be ignored.*

*Adjourned to 9.3.2018.*

2. On the next date, the reply was not filed and one last opportunity was given to the petitioners to comply with the previous order and the case was adjourned.

3. Learned counsel for the petitioners submits that even otherwise, the matter is covered by the order of this Court dated 20.05.2015 rendered in CWP No. 2326 of 2011, Chhabil Lal and others Vs. The State of Haryana and others, the facts of which are broadly similar to the present case on the question of regularization from the retrospective date. In Chhabil Lal's case (supra) also the services of the petitioners were terminated at one point of time yet owing to the intervention of the Labour Court they were all reinstated with continuity

of service. The appeal against the order in Chhabil Lal's case (supra) has been dismissed and so was the special leave petition carried by the Nigam i.e. SLP No. 1857 of 2018 arising out of the LPA No. 1700 of 2015 and orders passed therein on 10.10.2017. The Supreme Court has dismissed the Special Leave petition on 29.01.2018.

4. In the affidavit filed by the Department, no proper justification has been given. The written statement was filed on 05.01.2016 and the Court obviously dis-satisfied with the stand passed order dated 23.02.2018 pointing out the cases of one Subhash son of Raghubir Singh who was appointed as Beldar in the year 1997, Suresh and Rati Bhan whose services were regularised vide order dated 21.08.2014. The only reason given is that as regards Annex. P-4 & P-5 the same were issued by different Division Offices working under the administrative control of Yamuna Water Services Circle, Bhiwani, whereas the petitioners are working under Bond W/S Division, Bhiwani which is in the administrative control of Loharu Water Services Circle, Bhiwani. In the affidavit, it is stated that as per norms and Government instructions these circles are two different entities having their own sanctioned strength of staff with respect to the work to be carried out by them. The criteria adopted by one circle cannot be applied upon the other. The three employees mentioned above were regularised in the Yamuna Water Services Circle, Bhiwani as per the vacancy available.

5. In my view, this is an artificial division only to deprive the

petitioners of regularization which is not a proper defence. The Nigam is one institution and all are its employees. The petitioners have secured reinstatement order with continuity of service from the Labour Court and they are deemed to have continued in service.

6. Even otherwise, the case of the petitioners for regularization was recommended by the Executive Engineer, Bond Water Services Division, Bhiwani to the Superintending Engineer, Loharu Water Services Circle, Bhiwani. The dates of appointments of the petitioners are all prior to 01.08.1997. It has been recorded in the order that as per the regularization policy of the Government, the cases of the Workmen may be considered as all of them fulfill the conditions for regularization as per policy. The work and conduct of the workmen (petitioners) is good and there is no complaint of any kind against them. The writ petitions filed by the Nigam are mentioned in the Annexure and the awards have been upheld by this Court and have attained finality.

7. The petitioners plead a case of non-discrimination and parity of treatment with those who joined later, maybe in a different division, and their services have been regularised without Court intervention by the department itself. To substantiate their case the petitioners place reliance on the judgment of Supreme Court in Hari Nandan Prasad and another Vs. Employer I/R to Mangmt. of FCI and another; 2014 (2) SCT 234 and rightly so, on point of discrimination. In the context of regularisation where similarly placed persons have been

made permanent while the aggrieved were litigating in labour courts against termination orders, the Supreme Court had the following to observe:

“However, wherever it is found that similarly situated workmen are regularized by the employer itself under some scheme or otherwise and the workmen in question who have approached Industrial/Labour Court are at par with them, direction of regularization in such cases may be legally justified, otherwise, non-regularization of the left over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Art.14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality by upholding Art. 14, rather than violating this constitutional provision”.

8. Accordingly, this petition is allowed and the petitioners are held entitled to regularization from the due dates with consequential benefits.

**(RAJIV NARAIN RAINA)**  
**JUDGE**

**10.08.2018**

**kv**

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