

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 10.08.2018****CWP No.4507 of 2014**

Jagdish Chander Sharma

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jagdish Manchanda, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The instant petition has been filed seeking quashing of the order dated 21.02.2014 passed by the Director General State Transport, Haryana with a prayer to antedate the date of regularization w.e.f. 20.04.1990 instead of 01.02.1996 i.e. the date when juniors were granted the benefit. Similarity of facts is placed on a judgment dated 19.12.2011 delivered in CWP No.6315 of 1998 titled 'Jaimal Singh & others Vs. State of Haryana & others'. Is the case of any help?

A few basic facts may be necessary to be adverted to.

The petitioner was appointed on daily wages as Ticket Verifier on 24.04.1990. Therefore, the claim of the petitioner to regularize his services w.e.f. 20.04.1990 is without any legal or factual basis. In *Jaimal Singh's* case, the facts were different. Jaimal Singh was initially regularized from 01.04.1987, but his services were de-regularised w.e.f. 01.04.1993.

This de-regularisation order was struck down by this Court. The petitioner's services were regularized w.e.f. 01.02.1996 as per the prevailing policy on regularization and, therefore, the petitioner does not have an arguable case for antedated regularization w.e.f. 20.04.1990 on which date he was not even born in service. His case on discrimination built by citing cases of Ashwani Kumar, TVF and Mahender Singh, TVF is misplaced because in Para.15 of the written statement put in by the respondents contesting the case, it has been amply explained that the said two employees were regularized from the date of their initial appointments i.e. 01.04.1993 and 16.07.1991 respectively. Ashwani Kumar was appointed as TVF on daily wages basis on 18.08.1997 and Mahender Singh was appointed as TVF on daily wages basis on 07.04.1989. Therefore, the cases are apparently on different set of facts.

Still further, in *Jaimal Singh's* case, this Court directed the State Government to identify the Depot-wise requirement of post of Ticket Verifiers and to sanction the requisite number of posts so that their services could be regularized. The State Government undertook such exercise and the writ petitioners in that case were made regular w.e.f. 01.04.1987.

In Sukhbir Singh & others Vs. State of Haryana & others [LPA No.1662 of 2015 decided on 31.08.2016], the Appellate Bench dealing with a case of antedated regularization of Ticket Verifiers in the Transport Department, Haryana considered *Jaimal Singh's* case and held that Sukhbir Singh & others would not take the benefit of *Jaimal Singh's* case, as the petitioner in that case approached this Court as early as in the year 1998, while the appellants remained fence-sitters. There was no cut-off date for the purpose of regularization of services. Much was to depend upon as to how

many posts were sanctioned in a particular depot of the Transport department. All the writ petitioners of that case were not made regular w.e.f. 01.04.1987. The Bench concluded that even assuming that the appellants in *Sukhbir Singh's* case are similarly placed yet they lost their right as neither such claim was put up before the competent authority nor they approached any other forum within a reasonable period. The order of the learned Single Judge rejecting their claim on the ground of delay and laches was approved.

In the present case, a single petitioner has approached this Court in 2014 against an order dated 21.02.2014 (Annex P-14), which has been passed pursuant to the directions of this Court in the earlier writ petition filed by the petitioner i.e. CWP No.9931 of 2013. In the wake of the orders dated 14.08.2013, the impugned order dated 21.02.2014 has been passed wherein it has been disclosed that the petitioner was not a petitioner in *Jaimal Singh's* case and cannot take relief based on the order. In *Jaimal Singh's* case, the Court held that the dates of the regularization of the petitioners cannot be changed to their detriment by the order dated 13.02.1998 and that is how relief was brought to the petitioners in that case.

The services of the petitioner were regularized w.e.f. 21.11.2002 by order dated 01.02.1996 and he has thereafter not made any grievance of the dates till 2013, when he first approached this Court and in which case directions were issued to decide his representation. Accordingly, the cause of action accrued to the petitioner on 21.11.2002. There is 11 years delay in making claim before the competent authority or approaching any other forum within reasonable time.

The issue can be examined also from the stand point of the directions of the Supreme Court in State of U.P. & others Vs. Arvind Kumar

Srivastava & others, (2015) 1 SCC 347. Delay is apparent and laches remain unexplained as to what held back the petitioner for so long sleeping over his perceived rights and he will be deemed to have waived his rights and acquiesced in a state of things for an inordinately long time. Arguendo, the right may exist, but the remedy is taken away by slumber. The claim is rather stale and apparently a dead one by passage of time.

As a result of the above discussion and as already articulated by the Appellate Bench in *Sukhbir Singh*'s case, there is no life in this petition. The same is ordered to stand dismissed being devoid of merit and by reason of delay and negligence for want of prosecution and in exerting rights in a court of law within reasonable time.

10.08.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No