

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

C.W.P. No.3056 of 2016

Date of Decision:-22.05.2018

Virender Kumar

....Petitioner

vs.

Haryana State Agriculture Marketing Board,
Panchkula through its Chief Administrator

....Respondent

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. N.C. Kinra, Advocate,
for the petitioner.

Mr.Padamkant Dwivedi, Advocate,
for the respondent.

Sudhir Mittal, J. (Oral)

The grievance of the petitioner is that his claim for regularization has been rejected vide order dated 28.1.2016 (Annexure P-7) without giving any reasons in support thereof.

The petitioner was appointed as Clerk on Contractual basis w.e.f. 20.2.1995 against a vacant sanctioned post. He was retrenched vide order dated 9.2.1996. The order of retrenchment was challenged before the Labour Court and vide award dated 29.4.2003 (Annexure P-1), the petitioner was directed to be reinstated in service with continuity of service and full back wages. The writ petition filed by the respondent-Board challenging the award of the Labour Court was dismissed by this Court vide order dated 3.3.2005. An SLP was preferred wherein vide order dated 13.7.2007, the order of reinstatement was affirmed but the back-wages were restricted to 50%. Meanwhile, the petitioner was taken back in service on 16.8.2005. Representations for regularization were made in terms of relevant policy. The Market Committee in which the petitioner was working

recommended his case for regularization to the respondent-Board but vide impugned order dated 28.1.2016 (Annexure P-7), it was ordered to be filed without taking into consideration the averments made in the representations/legal notice.

In the reply of the respondent-Board, it is stated that the impugned order was passed because relevant policies were put on hold by the Government vide order dated 5.5.2015 (Annexure R-2).

The stand is not acceptable because on the date when the petitioner has moved his representation, the relevant policy was in force. Moreover, similarly situated persons as the petitioner as well as his juniors were granted benefit thereof but the same benefit was not extended to the petitioner. Thus, the action of the respondent-Board was illegal, arbitrary and discriminatory. The Government held back the implementation of the relevant policies much later and, therefore, the reason mentioned in the reply is not acceptable.

In view of the above, the writ petition is allowed and order dated 28.1.2016 (Annexure P-7) is quashed. The respondent-Board is directed to reconsider the case of the petitioner for regularization in terms of the legal position explained hereinabove. A speaking order be passed within a period of four weeks from the date of receipt of certified copy of this order.

May 22, 2018
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(SUDHIR MITTAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No