

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CWP-5908-2015

Date of Decision: May 14, 2018

Tiraspal and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr.Deepak Sonak, Advocate
for the petitioners.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

Sudhir Mittal, J. (Oral)

The petitioners seek quashing of order dated 13.02.2015 (Annexure P-5), whereby their claim for regularization of services has been rejected.

2. The petitioners were appointed in the Forest Department against Group D posts on daily wages during the period 1984 to 2001. Their services were terminated on different dates between 1994 to 2007. All of them approached the Labour Court and awards dated 15.06.2012 and 06.11.2013 were passed, directing re-instatement in service along with continuity in service and 50% back wages. Thereafter, the petitioners were re-instated in service but the awards were challenged before this Court. The awards were upheld by this Court however, back wages were denied. Thereafter, the petitioners sought regularization in terms of the policy dated 01.10.2003 (Annexure P-1), but their claim has been rejected vide the order dated 13.02.2015. Hence, the writ petition.

3. Detailed written statement has been filed on behalf of the State and rejoinder thereto, has also been filed.

4. The contention of learned counsel for the petitioners is that the petitioners were entitled to be considered for regularization in terms of policy dated 01.10.2003, but they could not be considered as their services were terminated. By awards of the labour Court, they were re-instated. Demand for regularization was again raised but the same has been illegally rejected, even though the persons identically situated as the petitioners, have been granted benefit of Policy dated 01.10.2003. Thus, Article 14 of the Constitution of India, has been violated and services of the petitioners are also required to be regularised.

5. Learned State counsel supports the order of denial of regularization in terms of Policy dated 01.10.2003. His submission is that the said policy was withdrawn pursuant to the judgment of Hon'ble the Supreme Court of India in **State of Karnataka Vs. Uma Devi, 2006 (4) S.C.C-1** and thus, the said policy was not in force on the date, the petitioners made representations. Consequently, the impugned order is justified.

6. I have heard learned counsel for the parties and am of the view that the writ petition deserves to be allowed. When the policy dated 01.10.2003, was in force, the petitioners could not have been considered as their services stood terminated. Thereafter, the Labour Court ordered their re-instatement and the awards have been complied with. Services of the similarly situated persons have been regularised thereafter, as is evident from Memo dated 07.09.2015 addressed by the Chief Secretary, Government of Haryana to the Chief Conservator of Forests, Haryana. Thus, denial of the same relief to the petitioners would amount to violation of Article 14 of the Constitution of India. It has been so held in Judgment of Hon'ble the Supreme Court of India in case **Hari Nandan Prasad**

and another Vs. Employer I/R to Mangmt. Of FCI and another, 2014(2)SCC 190.

7. Learned State counsel has also argued that the petitioners are not covered by the policy dated 01.10.2003, but has been unable to substantiate the same. A perusal of chart, given in the writ petition, listing dates of appointments of the petitioners, shows that there is no merit in the argument of learned State counsel.

8. Thus, the writ petition is allowed. The petitioners are directed to be regularised w.e.f. 01.10.2003 alongwith the consequential benefits within a period of two months from the date of receipt of a certified copy of this order.

May 14, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No