

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

Date of Decision:17.4.2018

1. CWP No.29171 of 2017 (O&M)

Rajender Kumar and others ... Petitioners

Versus

The State of Haryana and others ... Respondents

2. CWP No.29146 of 2017 (O&M)

Gulab Singh and others ... Petitioners

Versus

The State of Haryana and others ... Respondents

3. CWP No.29204 of 2017 (O&M)

Prem Singh and others ... Petitioners

Versus

The State of Haryana and others ... Respondents

4. CWP No.3799 of 2017 (O&M)

Daya Chand ... Petitioner

Versus

State of Haryana and others ... Respondents

5. CWP No.1878 of 2016 (O&M)

Janak Singh and others ... Petitioners

Versus

Dakshin Haryana Bijli Vitran Nigam Ltd. & Others ... Respondents

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

Present: Mr.Jagdish Manchanda, Advocate for the petitioners
in CWP Nos.29171, 29204 and 29146 of 2017

Mr.B.K.Bagri, Advocate for petitioners in
CWP Nos.1878 of 2016 and 3799 of 2017

Ms.Shruti Jain Goyal, AAG, Haryana

Mr.Maheshinder Singh Sidhu, Advocate
for respondents no.2 to 6 in CWP Nos.29171 of 2017
for respondents no.2 to 4 in CWP No.29204 of 2017

Mr.Hitesh Pandit, Advocate
for respondent no.6 and 8 in CWP No.29146 of 2017

Mr.Vikrant Pamboo, Advocate for respondents-Nigam in
CWP Nos.1878 of 2016 and 3799 of 2017

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of CWP Nos.29171, 29146, 29204, 3799 of 2017 and 1878 of 2016 as common questions of law and facts are involved in all these writ petitions which can conveniently disposed of by a common order. For the sake of brevity, facts are being taken from CWP No.29171 of 2017.

2. Written statement filed on behalf of respondents no.1 to 6 in CWP No.29171 of 2017 in Court today is taken on record.

3. I have heard learned counsel for the parties and have gone through the materials on record of the paper-book.

4. There can be no manner of doubt that the claim for regularization in all these cases deserves to be allowed in terms of the judgment rendered in *Chhabi Lal and others vs. The State of Haryana and others* (CWP No.2326 of 2011 decided on 20th May, 2015, Annex. P-11).

Against which decision, the Letters Patent Appeal carried by the Haryana

Vidyut Parsaran Nigam Ltd. and others has been dismissed in LPA No.1700 of 2015 vide order dated 10th October, 2017 (Annex. P-12). In Chhabi Lal's case, *supra* it was not disputed that the petitioners therein were appointed between 1987 to 1997 and had served for a period of 18 to 27 years when their services had been illegally terminated, they were reinstated with continuity of service with the intervention of the Labour Court. Learned Single Judge in *Chhabi Lal's case, supra* relied on an earlier decision of this Court in *Anand Walia and others vs. Haryana Urban Development Authority and others*, 2013 (3) SLR 611. This is a case where the petitioners had worked in the establishment for the last 12 years which itself showed that the work available was of a continuous nature. Besides, there are other judgments against the Nigam on the point including in *Gian Chand and others vs. Haryana Vidyut Parsaran Nigam Ltd. and others (CWP No.11368 of 2012 decided on 22nd April, 2014, Annex. P-14)*. Against which Letters Patent Appeal carried by the Nigam was dismissed vide order dated 17th July, 2014 passed in LPA No.1126 of 2014 (Annex. P-15) and SLP carried to the Supreme Court in *Gian Chand's case* was also dismissed on 7th January, 2015 (Annex. P-16).

5. In the present case, the petitioners have been serving in their respective departments continuously for a period of 15 to 26 years. The only difference in these cases is that the services of the petitioners were not terminated like in *Chhabi Lal's case, supra*. Therefore, the service is *non-litigious* in nature. Besides, the petitioners have a case based on parity of treatment where persons with the same standing have received favourable orders from the court leading to their regularization. It would then be for the Nigam to honour the mandate of Article 14 of the Constitution of India

discrimination. For this proposition, see the decision of the Supreme Court in *Hari Nandan Prasad and Anr. vs. Employer I/R to Management of FCI & Anr.*, (2014) 7 SCC 190 and a judgment of this Court in *Khajjan Singh and others vs. State of Haryana and others*, ILR 2014 PH 363. Even in *Secretary, State of Karnataka and others vs. Umadevi and others*, (2006) 4 SCC 1, the Supreme Court has recognized 10 years of service as sufficient to qualify for regularization of service as one time exemption. It is not the case of the petitioners herein that they were appointed illegally. They have continued to serve the department(s) for long period which leads to the conclusion that the jobs are permanent in nature and vacancies were available at the relevant time and are still available.

6. Consequently, these petitions are covered on precedents and are allowed in terms of the judgments in *Chhabi Lal and others vs. The State of Haryana and others* (CWP No.2326 of 2011 decided on 20th May, 2015, Annex. P-11) and *Gian Chand and others vs. Haryana Vidyut Parsaran Nigam Ltd. and others* (CWP No.11368 of 2012 decided on 22nd April, 2014, Annex. P-14).

17.4.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No