

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9531 of 2015 (O&M)

Date of Decision: 12.09.2018

Krishan and another

...Petitioners

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. Neeraj Kumar, Advocate
for the petitioners.

Mr. Harish Rathee, Senior DAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. By way of this petition brought under Article 226 of the Constitution, the petitioners claim regularization from the dates their juniors were regularized in service.

2. The facts leading to the filing of this petition are as follows: the petitioners were appointed as Class IV employees on daily wage basis in the Forest Department, Haryana through proper channel as per provisions of the Forest Manual.

3. The petitioners have been working continuously in the department for the last more than 15 years and claim that they are entitled for regularization of their services in view of the regularization policy dated 01.03.2003 framed by the Haryana Government. Similarly situated persons have been regularized by the department in view of the said regularization policy; therefore, the petitioners are entitled to be treated similarly to give effect to the equality clause in Article 14 of the Constitution of India. A list

of about 12 employees whose services have been regularized obtained under the Right to Information Act has been appended with the petition as Annexure P-3. The petitioners submit that the action of the State rejecting their claim for regularization of their services is illegal, arbitrary, discriminatory and violative of Articles 14 & 16 of the Constitution of India.

4. I have heard the learned counsel for the parties and perused the original record which has been produced by Mr. Satbir Singh, Deputy Superintendent who is present in Court.

5. One Virender Singh S/o Luxman Singh resident of VPO Chimani, District Jhajjar was petitioner No.3 in CWP No. 9264 of 2004 which was disposed of on 18.09.2004 by a Division Bench of this Court directing the respondents to *inter alia* consider the case of the petitioners for regularization and, if found entitled to, all consequential benefits be granted to them from the date of their regularization. In the meanwhile, status quo regarding the services of Virender Singh and co-petitioner was ordered to be maintained till a decision was taken. The original record confirms that Virender Singh and several of his co-petitioners were regularized under the 2003 policy w.e.f. 01.10.2003. It has been asserted by the petitioners that Virender Singh was appointed as a seasonal worker after the petitioners were engaged as Class IV employees. Petitioner No.1 joined served in the year 1991 while petitioner No.2 in 1986. Not only Virender Singh but a host of other similarly placed Class IV employees, as the petitioners, working on daily wages were regularized under the 2003 Policy.

6. The names of the petitioners were in the list of workers whose cases came favourably under the Policy. From the record produced by Mr.

Rathee signed by the Divisional Forest Officer, Jhajjar, it is seen that it contains 13 names in Jhajjar Forest Division which have been regularized w.e.f. 01.10.2003. Some of the names appear to be common to the petitioners and the regularized employees whose names were forwarded by the Divisional Forest Officer, Jhajjar by recommending their cases for regularization of service. The names of the petitioners fall in the list of probable persons at Sr. No. 23 & 24 in the list of 28 persons whose services have been regularized.

7. In the list, it has been certified by the Department that as per record from the years 2000 to 2003 both the petitioners had completed 240 days in each year of service. That petitioner No.2 has been working since 1992 (although in the petition the year asserted is 1986) and petitioner No.1 has been working since 1991. It has been certified that from the year 2000-03, the period relevant to the consideration under Policy 2003 that both the petitioners have worked continuously for 240 days in a year and are entitled to regularization as per policy dated 01.10.2003. This document has been produced by the learned counsel for the petitioners in Court and is retained on record as Mark 'X'. The existence of the letter can be linked with the letter dated 10.02.2011 already on record as Annex. P-4, to establish its veracity. This was also a letter written by the Principal Chief Conservator of Forests, Haryana addressed to all the Chief Conservator of Forests and the Chief Conservator at Karnal directing them to send the cases of those employees who were entitled to be regularized prior to 10.04.2006, but, due to some reason their cases could not be sent till date. Their cases with complete details along with 'BM' (explained as arrears of back wages) and copies of

the Court cases be sent to his office within a period of 15 days so that their cases can be sent to the Government. If still there is any case pending, and is glossed over the Divisional Forest Officer will be responsible for the same.

8. The fact that juniors have been regularized and the Department has certified that both the petitioners had completed 240 days of service during the relevant period of 03 years prior to 01.10.2003 then relief cannot be refused to the petitioners. If it is to be denied it would amount to discrimination.

9. In these facts and circumstances, this Court applies the principle of non-discrimination to bring relief of regularization with retrospective effect from the date juniors in service have been regularized.

10. Accordingly, this petition is allowed. The respondents are directed to regularize the services of the petitioners w.e.f. 01.10.2003, the inter se seniority would be as per their dates of initial joining. The petitioners are entitled to all consequential benefits albeit notionally. However, monetary benefits, meaning thereby, difference of pay and allowances be given to them only for 38 months prior to the date of filing of the petition. The requisite orders be passed within a period of two months from the date of receipt of a certified copy of this order. Original record is returned.

(RAJIV NARAIN RAINA)
JUDGE

12.09.2018
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Whether speaking/reasoned	:	Yes
Whether reportable	:	No

