

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

LPA No. 1407 of 2018 (O&M)

Date of Decision: 17.09.2018

Haryana Vidyut Parsaran Nigam Limited. Jind Ltd. and others

.....Appellants

versus

Ranbir Singh

.....Respondent

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. R.S.Longia, Advocate, for the appellants.

KRISHNA MURARI, C.J.(oral)

CM Nos. 3811 and 3812-LPA of 2018

Heard. For the reasons mentioned in the applications, delay of 31 days in filing and 25 days in re-filing the appeal is condoned. Both the applications stand disposed of.

LPA No. 1407 of 2018

This intra-court appeal under Clause X of the Letters Patent by the Haryana Vidyut Parsaran Nigam Ltd. (HVPNL) is directed against the judgment and order dated 08.05.2018 passed by the learned Single Judge allowing the writ petition filed by the respondent-petitioner herein and directing regularization of their services with effect from the date their juniors were regularized and also to pay arrears of salary.

2. Admittedly, the respondent-petitioner and similarly situated persons were working as part time Sweepers/Mali's in the appellant Nigam having been appointed on different dates between the period 13.10.1993 to 14.07.1997. In the year 2001, the respondent-petitioner herein alongwith

certain other identically situated employees filed Civil Writ Petition No. 4917 of 2001 seeking regularization of their services which was disposed of by this Court vide judgment and order dated 28.08.2002 in terms of an earlier judgment dated 22.08.2002 rendered in Civil Writ Petition No. 17998 of 1999 directing the appellant Nigam to frame a proper policy for regularization. In pursuance to the aforesaid direction issued by this Court, appellant Nigam framed a policy dated 08.08.2003 followed by another policy dated 29.07.2011. Still when the services of the respondent-petitioner was not regularized despite various representations, Civil Writ Petition No. 22459 of 2013 was filed which was disposed of vide order dated 09.10.2013 directing the appellant Nigam to consider the claim.

3. Vide order dated 23.12.2014 the claim of the respondent-petitioner alongwith other identically situated employees was rejected by the appellant Nigam on the ground that they were not appointed against the duly sanctioned vacant posts. The order was put to challenge by filing writ petition mainly on the ground that the policy under which the regularization was being sought, does not require the appointments to have been made against the duly sanctioned posts. The other ground was that they have been working more than 20 years and thus it is clear that the work is available and there exists no good ground not to grant the benefit of regularization.

4. Learned Single Judge placing reliance upon the fact that the persons junior to the respondent-petitioner had approached this Court by way of filing a Civil Writ Petition No. 11368 of 2012 *Gian Chand and others v. Haryana Vidyut Parsaran Nigam Ltd. and others* which came to be allowed by the learned Single Judge of this Court vide judgment dated 22.04.2014 which was affirmed by dismissal of the Letters Patent Appeal

against the said order and accordingly the services of the juniors were regularized vide order dated 05.03.2015.

5. Learned Single Judge also placed reliance on the judgment dated 24.04.2018 rendered by this Court in Civil Writ Petition No. 13675 of 2015 ***Ram Kishan v. Dakshin Haryana Bijli Vitran Nigam Ltd. and others***, wherein it was observed that in case of daily wage workers, a competitive selection is not necessary and the right to permanence accrues on the length of service.

6. Learned Single Judge also placed reliance on the judgment dated 08.12.2000 passed in Civil Writ Petition No. 13529 of 1999 ***Satya Dev v. Haryana Vidyut Prasaran Nigam Ltd.*** holding that where Clause-IV employee is working for decades together, a presumption arises that sufficient work is available and therefore, existence of a vacant regular post is not necessary. Placing reliance on the aforesaid pronouncements of this Court, the learned Single Judge allowed the writ petition and directed the services of the respondent-petitioner herein to be regularized.

7. Having heard learned counsel for the appellant Nigam, we see no good ground to take a view different from the one taken by the learned Single Judge. Admittedly, the order dated 05.03.2015 (Annexure P-16 to the writ petition) makes it abundantly clear that the persons junior to the respondent-petitioner have been granted regularization pursuant to the orders passed by this Court and denial of the benefit of regularization to the respondent-petitioner herein would amount to discrimination which is impermissible in law.

8. In view of the various pronouncements referred to above relied upon by learned Single Judge in the impugned judgment and the fact that the services of the persons junior to the answering respondent have been

regularized we find no fault in the judgment of the learned Single Judge in granting benefit to the respondent-petitioner as well and the same does not require any interference.

The appeal accordingly fails and stands dismissed in limine.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

17.09.2018
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No