

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

RSA No.4795 of 2016(O&M)

Date of Decision: 13.11.2018

Sugriv

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. B.S.Mittal, Advocate for the appellant.

Mr.Siddharth Sanwaria, DAG, Haryana.

SUDIP AHLUWALIA J. (ORAL)

C.M.No.12386-C-2016

This is an application seeking condonation of delay of 11 days in re-filing the appeal.

Heard.

For the reasons mentioned in the application, delay of 11 days in re-filing the appeal, is condoned.

CM stands disposed off.

RSA No.4795 of 2016(O&M)

1. The appellant is the plaintiff, who had originally filed a suit for declaration and mandatory injunction seeking regularization of his services on completion of requisite period of 240 days, after having originally joined as a D.P.C. under the concerned officers of respondents-authorities on 11.01.1994.

2. His suit was however dismissed by the Ld. Civil Judge (Jr.Divn.) Sirsa, who observed, *inter-alia*, that the benefit of regularization in service which had been granted in case of other employees in the State of Haryana in pursuance of the Govt. instructions dated 19.02.1979, was applicable only on the employees who completed their services on the said date, which was therefore not applicable in the case of the plaintiff-appellant. His appeal against

the dismissal of his suit was in turned dismissed by the Ld District Judge, Sirsa, vide the impugned judgment dated 15.01.2016.

3. Reliance of the appellant is on the various decisions passed by the various benches of this Court in respect of similarly situated employees. Particular reliance is placed upon the decision in RSA No.797 of 2009(O&M) titled as 'State of Haryana through Collector, Sirsa and others Vs. Suresh Kumar', whereby a similar decision of the Lower Appellate Court was set aside by a co-ordinate Bench of this Court after observing, *inter-alia*, :-

“The Courts while decreeing the suit of the plaintiff, as stated above have concurrently found that since the other daily wagers who had joined as Helpers in Haryana Roadways were given the benefit of regularization of their services on completion of 240 days, the plaintiff could not discriminated against in the matter of regularization of his services. Although it was found that the said employees earned this benefit after approaching this Court and the Hon'ble Supreme Court, but it was rightly observed while placing reliance upon a judgment of the Hon'ble Supreme Court in State of Haryana and another Vs. Dharam Singh in Special Leave to Appeal (Civil) CC 3815 of 2000 decided on 02.03.2001, and two judgments of this Court in Smt. Om Pati v. State of Haryana and others, 2007(1) Service Cases Today 294 and in Civil Writ Petition No.1437 of 1998 (Ishwar Singh V. State of Haryana and others) decided on 13.7.2005, that the defendant-department was duly bound to extend the same benefit to the plaintiff without forcing him to knock the doors of the Court. Nothing has been shown that the findings of fact so recorded by the Courts below suffer from any infirmity or are contrary to the record. No question of law, muchless substantial, arises in the present appeal.

Consequently, the appeal being without any merit is hereby dismissed in limine.”

4. It further transpires that a Special Leave to Appeal (Civil) CC

889/2010, preferred on behalf of the State against the above judgment was subsequently dismissed by the Hon'ble Supreme Court on 29.01.2010. The case of the appellant is, therefore, squarely covered by the ratio of the aforesaid judgment quoted in RSA No.797 of 2009.

5. In all fairness, Ld. Counsel appearing for the State concedes that the aforesaid decisions which have attained finality after dismissal of the SLP by the Hon'ble Supreme Court would also undoubtedly cover the appellant's case.

6. In these circumstances, this Court has no hesitation in setting aside the decision of both the Ld. Courts below and granting the decree in favour of the appellant to the effect that he is entitled for regularization of his services after 240 days of completed service from the date of his joining and he is also entitled for all the consequential benefits. The respondents are, therefore, directed to do the needful in the matter and to release all consequential benefits to him along with interest @ 6% per annum w.e.f. 38 months prior to the filing of the suit till realization within two months. Parties are left to bear the rule costs.

7. Appeal allowed.

13.11.2018

Anjal

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No