

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.10267 of 2001 (O&M)

Date of decision: 18.07.2019

Vijay Pal Singh

.... Petitioner

Versus

State of Haryana and another

... Respondents

Before: Hon'ble Mr. Justice B.S. WALIA.

Present: Mr. I.D. Singla, Advocate for the petitioner.
Mr. Harish Rathee, Sr. DAG, Haryana.

B.S. WALIA, J. (ORAL)

[1] Prayer in the writ petition is for the issuance of a writ in the nature of Mandamus for directing the respondents to regularize the services of the petitioner as per Govt. Instructions, Annexure P-5 dated 18.03.1996 on account of the petitioner continuously and uninterruptedly working with Haryana Roadways on daily-wage basis since the year 1994.

[2] A perusal of Govt. Instructions, Annexure P-5 dated 18.03.1996 issued by the Chief Secretary to the Government of Haryana reveals that work charged/casual/daily rated employees who had completed 5 years of service on 31.01.1996, besides, fulfilled other conditions stipulated in letter dated 07.03.1996 were to be regularized. However, the period of five 5 years contemplated in letter, Annexure R-1 dated 07.03.1996 was reduced to three years in terms of Govt. Instructions, Annexure P-5 dated 18.03.1996.

[3] Haryana Government letter No.6/38/95-2GSI dated 07.03.1996 (Annexure R-1) stipulates that causal and daily rated employees who had completed five years service as on 31.01.1996 and were in service on said

date would be regularized provided that they had worked for a minimum period of 240 days in each year and the break in service in any year was not more than one month at a time.

[4] Learned counsel contends that in view of the petitioner fulfilling the terms and conditions stipulated in Govt. Instructions Annexure R-1 as modified vide Govt. Instructions, Annexure P-5 dated 18.03.1996, the petitioner is entitled to be regularized in service w.e.f. 31.01.1996 instead of 01.11.2003 i.e. date on which the petitioner was regularized.

[5] Per contra learned Sr. DAG vehemently opposes the claim of the petitioner and states that the petitioner does not fulfil the conditions stipulated in Govt. Instructions (Annexure R-1), therefore, is not entitled to be regularized w.e.f. 31.01.1996 though the petitioner was engaged as a Driver on contract/daily wage basis w.e.f. 13.10.1992 but his contract was rescinded on 12.11.1992 due to non-availability of work and further the petitioner was again engaged as a Driver on contract basis w.e.f 15.02.1993 but on account of time missing on Rohtak Panipat route, his contract was again rescinded vide order No.7399/EA/RK dated 28.09.1993. Therefore, it was absolutely wrong and incorrect that the petitioner had continued to serve upto 06.01.1994. In fact the petitioner was appointed afresh on the post of Chowkidar on daily-wage basis w.e.f. 06.01.1994 to 30.06.1994 vide order Annexure P-1.

Learned Sr. DAG further states that vide CM No.7514 of 2005 the petitioner had prayed for issuance of directions to the respondents for regularization of his services w.e.f. 01.11.2003 in view of policy, Annexure A-1 dated 01.10.2003 and in pursuance thereto, the claim of the petitioner was considered as per policy Annexure A-1 and the petitioner was correctly regularized w.e.f. 01.12.2004 vide order dated 05.07.2010, whereafter the

petitioner retired from service on attaining the age of 60 years on 30.06.2011 and the petitioner has not challenged order dated 05.07.2010 regularizing his services w.e.f. 01.12.2004.

[6] I have considered the submissions of learned counsel for the parties.

[7] Annexure R-1 provides for regularization of work-charged/casual/daily rated employees who had completed five years of service as on 31.01.1996 and were in service as on said date provided that they had worked for a minimum period of 240 days in each year and the break in service in any year was not more than one month at a time. The petitioner is shown to have been engaged as a driver w.e.f. 13.10.1992 on contractual basis till rescinding of his contract on 12.11.1992 due to non-availability of work. Thus, in the year 1992, the petitioner worked only for 30 days, whereafter he was engaged as a driver on contractual basis w.e.f. 15.02.1993 but the said contract was also rescinded on 28.09.1993 on account of time missing on Rohtak Panipat route. Thus in the year 1993, the petitioner worked for a period of 06 months and 13 days. Thereafter, the petitioner was appointed as Chowkidar on daily-wage basis from 06.01.1994 to 30.06.1994 vide Annexure P-1. A perusal of the details as given in para No.3 of the written statement filed by the respondents reveals that the petitioner worked for 6 months and 13 days w.e.f. 15.02.1993 to 28.09.1993, whereafter his services as driver were terminated vide order dated 28.09.1993. Thereafter, on 06.01.1994, the petitioner was appointed as Chowkidar on daily wage basis upto 30.06.1994 vide Annexure P-1. Thus, as per the requirement in terms of Govt. Instructions dated 07.03.1996 (Annexure R-1), the petitioner did not complete 240 days of service in the year 1993.

[8] No doubt, though the petitioner after being appointed as Chowkidar on daily wage basis (i.e. w.e.f. 06.01.1994 to 30.06.1994) has continued in service uninterruptedly, yet in view of his not fulfilling the requirement as per Govt. Instructions (Annexure R-1) of having completed 240 days in each year (in the instant case the year is 1993) which falls within a period of three years as contemplated in Govt. Instructions, Annexure R-1 as modified vide Govt. Instructions Annexure P-5, the petitioner is not entitled to be regularized in service w.e.f. 31.01.1996.

[9] In the light of the position as noted above, the writ petition being bereft of merit is dismissed.

18.07.2019
amit

(B.S. WALIA)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No. |
| 2. | Whether reportable | : | Yes/ No. |