

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-14078-2019 (O&M)
Date of Decision: 26.08.2019

Vijay Kumar & another

--Petitioners

Versus

Punjab School Education Board & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Ms. Neeraj Chandel, Advocate for the petitioners.

Mr. R.S. Kalra, Advocate for the respondents.

TEJINDER SINGH DHINDSA.J (Oral)

During the course of arguments it has transpired that petitioner no.2 namely Rajinder Kumar had earlier filed CWP-6278-2017 seeking a Mandamus for his services to be regularized on the basis of a regularization policy dated 18.3.2011 appended as Annexure P-5 along with that petition on the strength of averments that he had been appointed on 10.7.2008 on daily wage basis as Helper and has worked continuously on such post.

Such writ petition was dealt with by this Court on merits and was dismissed vide order dated 26.4.2018 in the following terms:-

*“Petitioner (Rajinder Kumar) claims to have been appointed on 10.07.2008 (**Annexure P-1**) on Daily Wage Basis as 'Helper' and posted at Adarsh Senior Secondary School, managed by the Punjab School Education Board. He further claims, to have worked continuously and, a Mandamus for regularization of his services in terms of the Regularization Policy dated 18.03.2011 (**Annexure P-5**) framed by the Government.*

*It is urged that as per policy dated 18.03.2011 (**P-5**), the employees, if otherwise, appointed after adopting procedure and fulfilling the eligibility qualifications were to be regularized w.e.f. 01.04.2011 or on completion of three years'*

contractual service, whichever is later, and since the petitioner has completed three years of service, therefore, are entitled to regularization.

Upon notice, the respondents-Punjab School Education Board has filed an application bearing CM No. 6116 of 2018 praying for summary dismissal of the petition, by stating that the policy dated 18.03.2011 (P-5) relates to contractual employees and not to the persons employed on Daily Wage Basis or Work Charge Basis, as is relevant in the present case. It is next asserted that there is another set of policy dated 18.03.2011 (Annexure R-1/1), which governed the case of the employees, like the petitioner working on Daily Wage Basis, wherein the essential requirement was as under:-

“ (i) The daily wager/work charged employees who have completed 10 years of service in December 2006, are to be appointed on regular basis and for the said purpose posts may be created and all the employees who are eligible and fulfill the criteria as per the rules/regulations governing the post, be appointed on the said post. ”

It is submitted that in view of the aforesaid condition, the petitioner is not entitled for regularization in terms of the Regularization Policy issued in the year 2011, since concededly, the petitioner was engaged on Daily Wage Basis on 10.07.2008 (P-1) and thus, has not completed ten (10) years on Daily Wage Basis in December 2006.

After hearing counsel for the parties and scrutinizing the aforesaid documents/paper-book, this Court finds that the stand of the respondents is correct, and, therefore, the present petition deserves to be dismissed.

Dismissed.

*(JASWANT SINGH)
JUDGE”*

Strangely and for the reasons best known to petitioner no.2 he has filed the instant petition without even disclosing the factum of filing of the previous writ petition as also dismissal of the same on merits. Rather in

para 15 of the instant petition it has been categorically averred that the petitioner had not filed any such or similar writ petition earlier in this Court or in the Hon'ble Supreme Court of India.

Petitioner no.2 is clearly guilty of misstatement of facts and has made a deliberate attempt to hoodwink this Court. Such conduct needs to be deprecated in strong terms.

This Court was inclined to dismiss the instant petition qua petitioner no.2 with heavy costs. However, petitioner is being spared in view of the factual position that he was a daily wager and who since stands disengaged.

Even qua petitioner no.1 the prayer and claim raises in the instant petition would have to be declined on the reasoning adopted by this Court while dismissing the earlier writ petition i.e. **CWP-6278-2017 (Rajinder Kumar Vs. Punjab School Education Board & others)** decided on 26.4.2018 order of which has been reproduced herein above.

Writ petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

26.08.2019

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No