

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

**CWP NO. 12716 of 2013
DATE OF DECISION : 10.04.2019**

Sukhdev Singh Sahota

...Petitioner

versus

**Punjab State Power Corporation Limited
and another**

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. J. S. Maanipur, Advocate,
for the petitioner.

None for the respondents.

ARUN MONGA, J. (ORAL)

1. The petitioner was appointed as Junior Engineer on ad hoc basis on 30.10.1989. However, his services were terminated, which led to the filing of a civil suit by the petitioner, challenging his termination. The said civil suit was decreed in favour of the petitioner, vide judgment and decree dated 09.10.1991 (Annexure P-1), whereby his termination order dated 12.02.1990 was set-aside and it was held that, he will be considered to be in service for the entire period, while also granting all consequential service benefits. The said judgment and decree has since attained finality, as it was not challenged by the respondents and the petitioner was reinstated pursuant thereto.

2. Learned counsel contends that the impugned order dated 08.08.2012 (Annexure P-11) is in direct contravention of Regularization Policy dated 10.11.1993 (Annexure P-13), framed by the erstwhile Punjab State Electricity Board (PSPCL/successor-in-interest). The relevant extract of the said policy is reproduced herein below :

" It has been decided that the cases of such adhoc employees who complete three years minimum service/experience at their credit or as and when they complete the requisite period of minimum service/experience and have satisfactory record of service but who do not fulfil the prescribed conditions with regard to qualifications, age or mode of their initial recruitment may be considered for regularization with the following stipulations :

1) The adhoc appointments may be regularised at a level where direct recruitment exists. It means that adhoc appointments of certain categories were made even at a level where there is no direct recruitment. So, it would not be desirable to regularize such appointments at their existing levels. They can be regularized at one step lower or at the level where the direct recruitment is available.

2) This regularization would be made by the Selection Committee constituted by the Board for direct recruitment of different categories.

3) The seniority of adhoc employees on regular basis shall be determined from the date of issue of orders of their regularization. The interse seniority of such adhoc employees shall be determined in accordance with the date of their joining the post on adhoc basis. If the date of joining the post(s) on

adhoc basis of such adhoc employees was the same then elder employee shall rank senior to an employee younger in age. If the date of joining of the direct recruit and the date of regularization of adhoc employee is the same, the directly recruited shall be considered senior.

4) The adhoc appointed employees whose services are regularized under these orders will henceforth be governed by the relevant regulations/instructions issued by the Board from time to time.

5) The order of regularization of adhoc employees will be effective from the issue of such orders of regularization and the process of finalization of all such cases shall be completed within period of three months."

3. Relying on the aforesaid policy, learned counsel submits that the petitioner was entitled to regularization on completion of three years of service as Junior Engineer, as he fulfilled all other stipulations of the policy.

4. I have gone through the respective pleadings and heard learned counsel for the petitioner.

5. The main reasoning adopted by the respondents, as reflected in the impugned order, as well as the written statement, is that the petitioner has already been regularised with effect from 20.04.2004, on completion of three years of service, after having been reinstated, pursuant to the trial Court judgment, *ibid*. The said stand taken by the respondents does not stand judicial scrutiny and is not tenable.

6. The judgment and decree of the trial Court had attained finality. It clearly mandated that the petitioner is to be treated as if he continued in service throughout. It was also directed that the petitioner be reinstated with all consequential benefits. This being the position, for the benefit of regularization, three years of service was required to be counted from his original date of appointment i.e 30.10.1989.

7. In view of the aforesaid, the writ petition is allowed. The impugned order dated 08.08.2012 (Annexure P-11) is set-aside, with a direction to the respondents to reckon the original date of appointment for the purpose of counting three years, as envisaged in the Regularization Policy dated 10.11.1993 (Annexure P-13). The petitioner shall also be entitled to all consequential benefits in accordance with said policy.

8. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

APRIL 10, 2019
shalini

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No