

Sr. No. 220

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

CWP No.14613 of 2015 (O&M)

Date of Decision: 01.04.2019

Rohtash (since deceased) through LRs.

... Petitioners

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Ms. Pratibha Yadav, Advocate,
for the petitioners.

Mr. S.K.Mahajan, Advocate,
for the respondents.

ARUN MONGA, J.(ORAL)

Present writ petition has been filed, *inter alia*, for issuance of a writ in the nature of certiorari to quash the order dated 26.03.2014 (Annexure P-19), whereby the benefit for grant of regularization to the petitioner, since deceased, was declined.

2. Succinctly, the factual backdrop is that the petitioner was originally employed as work-charge 'T-mate' on 03.07.1987 and was later given the duties of work-charge 'Driver' on 08.11.1987 and the petitioner had been working ever since without any break.

3. Learned counsel for the petitioner states that petitioner has had an unblemished service record and yet his services have not been regularized in violation of the Policy dated 08.02.1988 (Annexure P-2).

4. Per contra, the stand taken by the respondents is that petitioner was not a good 'Driver' and was not sincere and therefore, he is not entitled to seek benefit of regularization in view of having unsatisfactory work and conduct.

5. I have gone through the rival pleadings and heard the learned counsels appearing on both sides. For the reasons stated hereinafter, the writ petition deserves to be allowed.

6. Before proceeding further in the matter, it would be instructive to extract the relevant part of the Regularization Policy (Annexure P-2), *ibid*:-

vi) *“The work charged staff who are found suitable for various posts may be offered regular appointments with deemed date of 01.01.1988, thereby meaning that there would be no work-charged establishment w.e.f. 01.01.1988 in the Board.”*

7. Learned counsel for the petitioner contends that stand taken by the respondents that the work and conduct of the petitioner was not satisfactory flies in the face of the service record of the petitioner. She contends that vide letter dated 05.12.2000 (Annexure P-3), the work and conduct of the petitioner was found satisfactory and his name was, accordingly, recommended for regularization. Similarly, as per letter dated 13.01.2005 (Annexure P-8), the work and conduct was again found satisfactory. Likewise, as per letter dated 10.07.2005 (Annexure P-9), it was yet again stated that work and conduct of the petitioner was good and he was fit for regularization as 'Driver.'

8. Similarly, learned counsel for the petitioner contends

that as per the proforma (Annexure P-10), the petitioner was found fit for regularization as 'Driver'. Notwithstanding, vide letter dated 17.12.2013 (Annexure P-17), it was conveyed to the petitioner that pursuant to proficiency test conducted on 07.01.2005, the work of the petitioner was not found satisfactory and, accordingly, his case for regularization was not recommended.

9. Learned counsel for the petitioner contends that throughout his career, the petitioner has had unblemished service record except for issuance of a charge-sheet dated 30.04.1997 pursuant where to, one annual increment of the petitioner was stopped without any future effect. She contends that the said fact is reflected from letter dated 17.12.2013 (Annexure P-17) and other than this, the conduct of the petitioner has been satisfactory throughout. She contends that in order to conceal the reality, the respondents have filed a misleading reply as is borne out from their own record relied upon by her vide Annexures P-3, P-8, P-9 P-10 and P-13, *supra*.

10. Per contra, learned counsel for the respondents submits that the petitioner himself did not appear before the Screening Committee on 27.09.2002 and, therefore, he cannot hold the respondents' responsible for non-grant of regularization.

11. Learned counsel for the petitioner, on the other hand, contends that there is nothing on record to reflect that the petitioner was called before the Screening Committee. Even otherwise, she contends that the petitioner has been throughout pursuing and representing for grant of benefit of regularization as

is reflected from representations (Annexure P-20 and P-21).

12. I am in agreement with the contentions of the learned counsel for the petitioner as noted above, I am of the view that the work and conduct of the petitioner has been found satisfactory by the respondents as is reflected from the respondents' own letters written from time to time whereby, his case was recommended for regularization.

13. As far as applicability of the regularization Policy, the case of the petitioner is squarely covered by the same. In view thereof, the present writ petition is allowed with a direction to the respondents to grant regularization to the petitioner with effect from his date of entitlement as per the Policy dated 08.02.1988 (Annexure P-2) with continuity in service.

14. It is, however, made clear that the petitioner shall not be entitled to any past pecuniary benefits, beyond the period of 38 months immediately preceding filing of the present writ petition. However, petitioner shall be entitled to all future benefits arising out of grant of benefit of regularization.

15. Petition is allowed in the aforesaid terms.

(ARUN MONGA)
JUDGE

01.04.2019

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No