

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 15901 of 2016 (O&M)
Date of Decision: 29.10.2019

Tarvinder Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Arvind Kashyap, Advocate,
for the petitioner.

Mr. P.S. Bajwa, Addl. A.G., Punjab

Mr. Vipin Yadav, Advocate
for respondents No. 2 and 3.

ARUN MONGA, J.(ORAL)

1. Grievance of the petitioner herein is that his services were not regularised despite entitlement thereto.

2. Petitioner was originally appointed from 27.10.1988 and he has been working ever since except for the short breaks between 2001 to 2008 when his services were dispensed with. Pursuant to award dated 16.10.2008 (Annexure P-4) passed by the Labour Court, Gurdaspur, he was re-instated with continuity of service alongwith 50% back wages. Learned counsel for the petitioner contends that the said award was challenged before this Court by filing CWP No. 1580 of 2010 and vide its judgment dated 22.09.2010 (Annexure P-5), the award was upheld.

3. Having heard on conjoint perusal of the contentions, I am of the view that the petitioner has been meted out with hostile discrimination inasmuch as conceded stand taken in the written statement is that daily wagers/work charged employees have been regularised by the Corporation after obtaining requisite approval from the State Government. The said benefit has not been accorded to the petitioner, who is senior to the said

daily wager. The factum of his being senior is also reflected from the judgment dated 22.09.2010 wherein it has been recorded that the corporation conceded before the Court that the daily wagers employed after 27.10.1988 were still working in the corporation when the petitioner's services were dispensed with in the year 2001. It was in the light of the said concession, the award of the Labour Court was upheld and the petitioner was taken back in service.

4. The stand of the respondent corporation is that the petitioner cannot claim regularization in service from back date as he was working on a contract basis and the said contract has been extended from time to time and not against the sanctioned post.

5. Once it is established that the persons junior to him who were employed on daily wages on work charged basis have been regularized, the said stand of the respondent-corporation falls flat and cannot be accepted. Further the conceded position that emerges from the stand taken in the written statement is that the policy-instructions dated 23.01.2001 issued by the State Government are applicable to the Corporation. In the premise, the petitioner was/is also entitled to the benefit of the said instructions and his case ought to have been considered for regularization on parity with work charge basis/daily wagers, who were though employed after him but yet have been regularized.

6. The writ petition is accordingly allowed with a specific direction to the respondent-corporation to consider the case of the petitioner for regularization of services on parity with his juniors, who have been regularized while the petitioner was working on the post of work charge/daily wager. The needful be done within a period of three months

from the date of receipt of a certified copy of this order. It is made clear that the petitioner shall be regularized with effect from the same date when his juniors have been accorded the said benefits. The petitioner shall also be given the consequential past pecuniary benefits arising therefrom for 38 months prior to filing of this writ petition alongwith interest @ 7% w.e.f. date of entitlement till the actual date of disbursement.

7. Disposed of in above terms.

29.10.2019
dinesh

(ARUN MONGA)
JUDGE

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