

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

**CWP NO. 22762 of 2013(O&M)
Date of Decision: 21.05.2019**

Ranjit Singh

... Petitioner

versus

State of Punjab & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Somesh Gupta, Advocate
for the petitioner.

Ms. Ambika Sood, DAG Punjab.

Mr. Sanjiv Sharma, Advocate
for respondent No.3.

ARUN MONGA, J.

1. Petitioner herein, seeks direction to the respondents to regularize his services with effect from 31.10.1993 in accordance with instructions/ regularization policy dated 15.12.2006.

2. Succinctly put, the facts of the case are that in 1986 the petitioner joined the erstwhile Water Supply and Sewerage Board, Punjab as Pump Operator on daily wages. Thereafter, in the year 1987 the Board was taken over by Municipal Council, Banur and the petitioner continued to work with the Council till 2008, when his services were terminated. The grievance of the petitioner is that his services were terminated vide order dated 31.03.2008 in gross violation to the regularization policy dated

15.12.2006 formulated by the State Government vide which the services of daily wagers were regularized.

3. Consequently, the petitioner was forced to file CWP No 9063 of 2010 before this Court challenging the termination order and seeking regularisation of services. This Court vide order dated 08.08.2011 allowed the writ petition with following observations and directions:-

“Accordingly, the present petition is allowed. The order dated 31.03.2008, Annexure P 16, is set aside and as a consequence thereof, the respondents are directed to reinstate the petitioner in service forthwith. The case of the petitioner for regularisation of services shall be considered in accordance with policy dated 15.12.2006, Annexure P 17, within a period of three months from the date of receipt of copy of this order. The period for which the petitioner remained out of service shall be taken to be continuity in service for all intents and purposes. However, the petitioner is not entitled to claim any wages for the period he did not work.”

4. Pursuant to the order *ibid*, the petitioner made repeated representations (Annexures P-2 to P-7) to the respondents and sought implementation of the orders passed by this Court, but to no avail. Case of the petitioner was recommended by respondent No. 1-Principal Secretary, Department of Local Government vide letter dated 08.11.2011 (Annexure P-8), still nothing was done, leading to issuance of legal notice dated 01.12.2011 (Annexure P-10), to the respondents.

5. It is the case of the petitioner that vide letter dated 09.12.2011 (Annexure P-11), he was given appointment, but to his dismay he was treated as a fresh entrant in violation of the order passed by this Court. He

was denied the benefit of continuity of service from the date of his initial appointment, as clearly mentioned in the order dated 08.08.2011 (Annexure P-1). Even his representation dated 18.10.2012 (Annexure P-15), to regularise his services, was not considered by the respondents. Hence the present writ petition.

6. In its return, respondent No. 3 has taken the stand that the petitioner had earlier approached this Court vide CWP No. 16746 of 2000, which had been allowed vide order dated 26.04.2002. However, the same was challenged before Hon'ble the Apex Court in SLP (Civil) No. 2910-2911 of 2003 which was converted to Civil Appeal No. 260 of 2007. While setting aside the order passed by this Court vide order dated 12.01.2007 (Annexure R-3/1), the Apex Court had held the policy of regularisation dated 15.12.2006 as unconstitutional being in violation of Article 309.

7. Consequent thereto, the respondents passed termination order dated 31.03.2008. Being aggrieved by the same, the petitioner had again filed CWP No. 9063 of 2010 before this Hon'ble Court, which was allowed. However, the Court had ordered that the plea of the petitioner, to regularise his service, was to be decided in view of the policy dated 15.12.2006, which had been set aside by Hon'ble the Apex Court. Hence, he was given fresh appointment vide order dated 09.12.2011 (Annexure P-11). While submitting his joining report, he had agreed to the new terms and conditions and now he is estopped to challenge the same.

8. Learned counsel for the petitioner has contended that the lackadaisical approach of the respondents, to comply with order passed by this Hon'ble Court, shows the blatant non-seriousness on their part. When this Court had categorically ordered that the petitioner would be granted the

benefit of continuity in service from his initial date of appointment, the respondents could not have, in a casual manner ignored the directions of this court.

9. Even otherwise, he contended that a similarly situated employee, Sh. Baljinder Pal Singh, who was appointed on the same day and place as the petitioner, on the same conditions, has been granted the benefit of regularisation of services w.e.f. 31.10.1993. The respondents cannot discriminate and frame two set of rules for similarly situated employees. In view of the same, even if for the sake of arguments it is assumed that benefit of policy dated 15.12.2006 was not admissible to the petitioner, on the larger principles of violation of his rights envisaged under Article 14 of the Constitution of India, the petitioner cannot be treated unequally, especially when another similarly situated employee has been given the benefit of regularization. Therefore, denial of the same to the petitioner does not sustain the judicial scrutiny.

10. Per contra, learned counsel for the respondents contended that the benefit of regularisation could not be granted to the petitioner in terms of the policy dated 15.12.2006, when the same had been set aside by Hon'ble the Apex Court in Civil Appeal No. 260 of 2007, being violative of Articles 14, 16 and 309 of the Constitution of India.

11. Disputing the stand of the learned counsel for the petitioner that similarly situated persons, namely one Sh. Baljinder Pal Singh, had been given the benefit, whereas the same were denied to the petitioner, it is submitted that the benefit had been granted prior to the orders passed by the Apex Court and the petitioner cannot derive any benefit from the same.

12. I have gone through the paper-book with the able assistance of

the learned counsel for both the parties and have heard them at length.

13. The conceded position that emerged after a conjoint reading of the pleadings is that intra-party judgment rendered by this Court in CWP No. 9063 of 2010 had since attained finality as neither any LPA nor any SLP was preferred by the respondents. In view thereof, the findings contained therein cannot be faulted with either on merits or even on the ground of judgment being *per incuriam*, as contended by learned counsel for the respondents.

14. Even otherwise, a perusal of the judgment reflects that pendency of the SLP before the Supreme Court was fully to the knowledge of the Court and having noted the same the judgment dated 08.08.2011 was rendered in CWP No. 9063 of 2010.

15. In the premise, the writ petition is allowed with a direction to the respondents to grant benefit of regularization to the petitioner at par with Sh. Baljinder Pal Singh, similarly situated employee with effect from 31.10.1993.

16. In the circumstances, the respondents are directed to determine all the pecuniary benefits arising out of the regularization of the petitioner in terms of order dated 08.08.2011(Annexure P-1) passed by this Court in CWP No. 9063 of 2010 and pay the same with interest @ 6% per annum with effect from the date of entitlement till the actual disbursement.

17. Writ petition stands allowed accordingly.

(ARUN MONGA)
JUDGE

May 21, 2019

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1. Whether speaking/ reasoned:

Yes/ No

2. Whether reportable:

Yes/ No