

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

CWP No.20952 of 2014.

Date of Decision: 30.04.2019

Ram Awadh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. V.K. Shukla, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

JITENDRA CHAUHAN J.

Through the instant civil writ petition, the petitioner has sought quashing of order dated 08.01.2014 (Annexure P-6) vide which the claim of the petitioner for counting his daily wage service with effect from 01.12.1984 to 31.05.1985 for regularization of his services had been declined.

The petitioner was appointed as daily wager in Water Supply and Sanitation department on 01.12.1984 and remained as such till 31.05.1985. Subsequently, he was placed against the post of Fitter-Helper on daily wage basis with effect from 01.06.1985 and while working as such, his services were regularised with effect from 10.05.2002.

In this context, the Government of Punjab issued a Policy dated 23.01.1995 followed by Policy dated 28.05.1997 (Annexure P-1 and P-2) for regularization of services of Work-charged employees/Daily wage and Ad-hoc employees, who had completed

five years of service in case of work-charged and ten years of service in case of Daily wage employee as on 30.11.1994.

It is contended that the petitioner had completed ten years of service as daily wager as on 30.11.1994 by counting his service from 01.12.1984 as required under the Policy dated 23.01.1995 (Annexure P-1) and Policy dated 28.05.1997 (Annexure P-2). The petitioner is entitled to be regularised in terms of the aforesaid policies from the due date i.e. 01.12.1984. However, the case of the petitioner for regularization of his services was not considered because at that point of time while sending his case for regularization, the date of entry into service was shown as 01.06.1985 instead of 01.12.1984 and as such the services rendered by the petitioner as daily wager were not taken into consideration. Thereafter, the petitioner was regularised with effect from 10.05.2002 as Fitter Helper by counting his service from 01.06.1985. However, vide impugned order dated 08.01.2014 (Annexure P-6) passed in pursuance to directions issued in CWP No. 11485 of 2013, the claim of the petitioner for counting his daily wage service was declined.

On behalf of the respondents, it is contended that the petitioner was engaged as Mali-cum-Chowkidar on 01.12.1984 and worked upto 31.05.1985. Thereafter, the petitioner himself left his job on his own accord. Thereafter the petitioner was engaged as Fitter Helper on daily wage basis with effect from 01.06.1985 and his services were regularised with effect from 10.05.2002 against the post

of Fitter Helper. The petitioner was firstly engaged as Mali-cum-Chowkidar and thereafter as Fitter/Helper, therefore, the cadre of the petitioner had been changed. Due to change of cadre, the services rendered on Daily wages as Mali-cum-Chowkidar from 01.12.1984 to 31.05.1985 cannot be counted in the cadre of Fitter-Helper being a different cadre.

Heard.

It is to be noted that the petitioner firstly joined service as Daily wager Mali-cum-Chowkidar on 01.12.1984 and he remained as such on 31.05.1985. On 01.06.1985 the respondent department on its own placed him as Daily wage Fitter-Helper. There is no record to indicate that the petitioner left his job on his own accord. Thus, his services on daily wage basis from the date of entry into service on 01.12.1984 remained continuous, un-interrupted and without any break. He remained in the same department and under the same employer while working as Daily wage Mali-cum-Chowkidar and as Daily Wage Fitter-Helper and remained in the cadre of Group-D post. Having regard to the Policy dated 23.01.1995 (Annexure P-1) and Policy dated 28.07.1995 (Annexure P-2), the petitioner completed his ten years daily wage service as on 30.11.1994 and accordingly, he was entitled to be regularised on 01.12.1994 instead of 10.05.2002. The requirement of the Policy for regularization talks of daily wage service of an employee upto 30.11.1994. It does not talk about the cadre of the post. The petitioner remained in the cadre of Class IV post being daily

wage Mali-cum-Chowkidar and daily wage Fitter-Helper. The said service being continuous, uninterrupted and in the same department, makes the petitioner entitled to be regularised with effect from 01.12.1984. Moreover, vide letter dated 01.10.2001 (Annexure P-4) issued by the respondents, it has been admitted that while sending the list of daily wage employees for considering their names for regularization, the name of the petitioner was shown at serial No.1, however, his date of entry into service was shown as 01.06.1985 whereas, as per his service record from the Muster rolls, it is evident that the petitioner rendered service as daily wage-Mali-cum Chowkidar with effect from 01.12.1984 to 31.05.1985.

In view of above, the present civil writ petition is allowed. The order dated 08.01.2014 (Annexure P-6) is hereby quashed. The respondents are directed to regularize the services of the petitioner from due date by counting his daily wage service from 01.12.1984 to 31.05.1985 in view of Policy dated 23.01.1995 (Annexure P-1) and Policy dated 28.05.1997 (Annexure P-2).

The necessary exercise be completed within a period of two months from the date of receipt of copy of the judgment.

30.04.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No