

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 21.05.2019
CWP No. 25868 of 2015

Jai Bhagwan

.... Petitioner

versus

Haryana Power Generation Corporation Ltd. and another

.... Respondents

CWP No. 8043-2016

Sat Narain and others

.... Petitioners

versus

Haryana Power Generation Corporation Ltd. and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. J.K. Goel, Advocate with
Mr. Shvetanshu Goel, Advocate
for the petitioner in CWP-25868-2015

Mr. Vikas Chatrath, Advocate and
Mr. Khushkaran Kumar, Advocate
for the petitioners in CWP-8043-2016

Mr. R.D. Bawa, Advocate with
Mr. Samuel Gill, Advocate
for the respondents in CWP-25868-2015

Mr. Hitesh Pandit, Advocate
for the respondents in CWP-8043-2016

ARUN MONGA, J.

This order of mine shall dispose of abovesaid two writ petitions
as common questions of law and facts are involved therein. For brevity,
facts are being taken from CWP No. 25868 of 2015.

2. Petitioner(s) herein seeks quashing of order dated 02.08.2010 (Annexure P-3), whereby, his plea seeking regularization of services from deemed date i.e. 05.09.1991 as Helper Grade-I, has been rejected and further seeks directions to be issued to the respondents to grant him the same.

3. The petitioner was appointed as T-Mate on 03.01.1978 on work charge basis in the erstwhile Haryana State Electricity Board (predecessor in interest to respondent-Haryana Power Generation Corporation Ltd. for brevity HPGCL). Thereafter, his services were regularized as T-mate in the month of February, 1992. A Screening Committee was constituted in the year 1989 for regularizing the service of employees, who were working on work charge basis and it was recommended that their case will be considered for regularization.

4. The services of those work charge employees, whose names were recommended by the Screening Committee, were regularized. The Screening Committee did not consider the case of the petitioner properly due to which his case was not recommended. Services of the petitioner were regularized from February, 1992 as T-Mate. The petitioner, in 1993, was given an option by the authorities for appointment to the post of Helper Grade-II and he joined as such with effect from 14.02.1992. He was later promoted to the post of Helper Grade-I in the year 1996.

5. On demand of the workers union a Grievance Committee was constituted to look into the cases of those employees seeking regularization from the deemed date, who had been overlooked. The petitioner could not represent to the Committee, as he had no notice of constitution of the same. However, some of the employees, who were junior to the petitioner, were

given the benefit of regularization from the deemed date i.e. 05.09.1991.

Petitioner approached this Court by way of writ petition No.5201/2010 and this Court disposed of the same by directing the respondents to consider and decide the representation of the petitioner for grant the benefit of regularization at par with his juniors, namely, Maha Singh and Balwan Singh.

6. The petitioner then made representations to the respondents seeking grant of benefit of regularization from the deemed date, as given to his juniors, which were rejected on the ground that he did not approach the Grievance Committee.

7. A similarly situated junior of the petitioner, namely, Ved Singh Malik's plea for regularization had been rejected on the same ground. He had then approached this Court in CWP No. 15262 of 2010, wherein this Court had quashed the order rejecting his claim. Pursuant to the decision of this Court, he was granted benefit of regularization vide order dated 23.05.2012 (Annexure P-6). Due to denial of similar benefits to the petitioner, he caused a legal notice dated 14.10.2015 (Annexure P-7) to the respondent authorities but the same was not adverted to. Hence this writ petition.

8. Learned counsel for the petitioner submits that the case of the petitioner is squarely covered by judgments of this Court rendered in CWP No. 11882 of 2013 titled as **Maha Singh vs. The Haryana Power Generation Corporation Limited and another** and CWP No. 15262 of 2010 titled as **Ved Singh Malik vs. The Haryana Power Generation Corporation Limited and others**. The relevant part of the judgment in Maha Singh's case is reproduced hereinbelow:-

“Admittedly, the other similarly situated employees were granted the benefit of regularization from deemed date because of the relief granted to the petitioner and subsequently, the benefit granted to the petitioner was withdrawn by the respondents vide letter dated 14.05.2013, which is a subject matter of challenge in the present petition. The review petition was dismissed and thereafter, the LPA was also dismissed. The decision passed in the LPA has not been challenged so far and the said decision has attained finality. Some of the similarly situated employees namely Prem Singh, Randhir Singh and Ved Singh Malik have approached this Court by way of filing Civil Writ Petition Nos.15441 of 2001, 15244 of 2010 and 15262 of 2010, respectively and their petitions were allowed by this Court and they were found entitled for benefit of deemed date of regularization from the date their juniors were granted. The case of the petitioner cannot be on different footing viz-a-viz those employees who have already been granted the benefit. Moreover, those employees were granted the benefit of regularization from the date the present petitioner was granted. The impugned order was passed not only without following the procedure but also without affording reasonable opportunity to the petitioner and moreover, the similarly situated employees have been granted the benefit of regularization from deemed date.

Learned counsel for the respondents is not in a position to tell as to how the case of the petitioner is different from those employees who have been granted benefits.

In view of the facts as mentioned above, the present petition deserves to be allowed.

Accordingly, the impugned order dated 14.05.2013 (Annexure P-7) is quashed and the respondents are directed to grant the benefit of regularization to the petitioner at par with other similarly situated employees namely Prem Singh, Randhir Singh and Ved Singh Malik.”

petitioners case had been rejected on the ground that he had not represented before the Grievance Committee as was notified, on its formation. He had failed to take up his case before the appropriate forum. Consequently, he had also accepted regularization as Helper Grade-II from the year 1992, which reflects that he was not interested in regularization from the deemed date. On this ground alone the present petition deserves to be dismissed.

10. Having gone through the pleadings and after hearing learned counsel for the respective parties, I am of the opinion that the petition merits being allowed.

11. Relevant part of impugned order dated 02.08.2010 Annexure P/3 is as under:-

“The grievances committee submitted his report and recommended the deemed date regularization of Sh. Balwan Singh (respondent No. 4) and Sh. Maha Singh (respondents No. 5) w.e.f. 05.09.1991. As such Sh. Balwan Singh and Sh. Maha Singh have been granted the deemed date regularization as Helper Grade-I w.e.f. 05.09.1991 vide O/O No. 287/EOM/G-129 dated 25.03.2006. The case for deemed date regularization of Shri Jai Bhagwan has not been considered by the Committee as he was not submitted his representation to the grievances committee which was constituted on 24.02.2006. He was already selected by the screening committee during 1990 but due to lack of vacancy he was not issued offer of appointment as Helper Grade-I. In between the services of the official were regularized vide Memo No. Ch-117(1-4)/EOM/G-120/L dated 04.02.1992 against personal post as T/Mate in view of erstwhile Addl. Secy. HSEB, Panchkula Memo no. Ch-54/NGE/G-147/Projects dated 12.11.1991. Further the official has exercised his option to the post of Helper

Grade-II in view of erstwhile Addl. Secy. HSEB, Panchkula Memo No. Ch-164/NGE/G-147/Gen. Projects dated 10.02.1993 and he was appointed as Helper Grade-II vide office order no. 307/EOM/G-120/L/Vol.IV dated 01.06.1993 on seniority basis. Further he was promoted as Helper Grade-I vide office order no. 283/EOM/G-120/L/Vol-IV dated 22.02.1996.”

It negates the respondents stand that the petitioner was not interested in regularization of his services as Helper Grade-I from deemed date of entitlement.

12. I am in agreement with the averments made in the petition and also the arguments put forth by the learned counsel for the petitioner that the present case is squarely covered by judgments rendered by this Court in CWP No. 11882 of 2013 titled as '**Maha Singh vs. The Haryana Power Generation Corporation Limited and another**' and CWP No. 15262 of 2010 titled as '**Ved Singh Malik vs. The Haryana Power Generation Corporation Limited and others**' which have since attained finality.

13. I am also in respectful agreement with the view taken in judgment of this Court in CWP No. 22031 of 2012 and other connected matters, titled as '**Gian Chand vs. Haryana Power Generation Corporation Limited and others**' decided on 19.02.2014, as relied on by the learned counsel for the petitioner. In the judgment, this Court while allowing the petitions, relied on the judgment rendered in *Ved Singh Malik's case*, *ibid*. The relevant whereof is reproduced hereunder:-

“In view of the submissions made by learned counsel for the parties and also the fact that the present case is squarely covered by decision in C.W.P. No. 15441 of 2001 decided on 4.12.2008 as well as C.W.P. No. 15262 of 2010 decided on 19.7.2011, the petitioner (s) is also entitled for the same

benefit from the date his junior has been promoted. Moreover, LPA No. 1871 of 2013 filed by the respondents was also dismissed on the ground of delay but the decision in LPA has not been challenged by the respondents and the same has attained finality. The petitioner is also similarly situated and moreover he is senior to respondent No.3-Chand Singh, who has already been granted deemed date of regularization.

Accordingly, the present petitions are allowed in terms of the judgments rendered in C.W.P. No. 15441 of 2001 decided on 4.12.2008 and C.W.P. No. 15262 of 2010 decided on 19.7.2011. The respondents are directed to grant necessary relief to the petitioner (s) as mentioned above within a period of two months from the date of receipt of certified copy of this order.”

14. In the premise, the petitions are allowed being squarely covered by the judgments, *ibid*. The impugned order dated 02.08.2010 (Annexure P-3) is set aside. The respondent authorities are directed to grant the benefit of regularization as Helper Grade I to the petitioners from the deemed date i.e. when their juniors were granted the benefit. The petitioners shall be entitled to all the consequential benefits arising from the deemed date of regularization. However, it is directed that pecuniary benefits shall be restricted to 38 months prior to filing of the writ petition.

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

May 21, 2019
smriti/R

(ARUN MONGA)
JUDGE

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