

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

CWP No. 4963 of 2015

Date of Decision: 07.05.2019

Inderawati

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Digvijay Singh, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

This writ had been allowed but while dictating the order, I thought the clarification of few facts may be required before passing final judgment and order and that is how this matter has been listed today for re-hearing.

Mr. Malik, Senior Counsel has clarified the intimate connection between the facts of CWP Nos. 6315 of 1998 and 5532 of 2000, both decided by a common order dated 19.12.2011 by the learned Single Bench in which Mr. Malik incidentally was the counsel for the petitioners and the present petitioner Indrawati is identically placed with Jaimal Singh and others and Kuldeep Singh and another and must reap the same benefit of regularization of services as Ticket Verifiers in various depots of Haryana Roadways for whom an exercise was ordered

to be done by this Court to frame a Scheme to ascertain workload in each depot of Haryana Roadways and after determining such strength the services of those employees be regularized who have completed 242 days in a calendar year and keeping in view the length of service. Those directions were complied with in the aforesaid two cases and the orders of regularization w.e.f 1987-88 were found to have been wrongly withdrawn by the subsequent orders of the government and this Court in the aforesaid two writ petitions restored the rights of the petitioners therein from the date they completed 242 days of services in the calendar year preceding the date of regularization.

In this case also the services of the petitioners were initially regularized w.e.f. 01.04.1987 vide order Annex. P-5 but by the impugned order dated 11.03.2015, the order was withdrawn and the date of regularization changed to run from 01.04.1993.

Mr. Malik also relies on my decision in CWP No. 20157 of 2013, Inderaj Singh and others Vs. State of Haryana and others decided on 15.01.2018 on similar issue with the Court observing in paragraph Nos. 3 and 4 as follows:

“3. By an impugned order passed in 2011, their dates of regularization were changed. For instance, in the case of Inderaj Singh from 1st March, 1985 to 1st November, 1986 and so on and so forth. To achieve the result, the General Manager, Haryana Roadways has applied the instructions of 28th April, 1987 and 12th May,

2010 issued by the Director General Transport Department. Against the orders (Annex. P-2 and P-3), the petitioners have approached this Court.

4. The issue is not res integra. The issue has already been decided in many cases including in CWP No.13136 of 2012 (Bir Singh and others vs. The State of Haryana and others decided on 1st October, 2012). The issue is also covered by the decision in CWP No.18714 of 2013 (Jagdish Chand and others vs. State of Haryana and others decided on 18th May, 2016) and three other connected petitions against which the State had gone in LPA No.862 of 2012. The same has been dismissed on 2nd July, 2012. The Division Bench held that since the services of the respondents in appeal already stood regularized in the years 1987-88, the subsequent policy dated 1st April, 1993 which was a general policy meant to regularize services of ad hoc/contract/work-charge employees of different departments, could not be treated retrospectively in order to postpone the dates of regularization of services of the respondents in the appeal and as such the said policy could not adversely affect their conditions of service.”

The relief has to come to the petitioner by the fiction of reinstatement by the award of the Labour Court granting continuity in service with back-wages. The only fault of the petitioner was that she

was thrown out of service and had to litigate to return while in those cases, the petitioners were more fortunate as their services were retained as Ticket Verifiers on daily wages. Therefore, I hardly see my way out to distinguish these cases, however, hard the State may follow. As a result of the above discussion, the writ petition is allowed and the impugned order dated 11.03.2015 is quashed. The order dated 19.07.2013 (Annex. P-5) is restored. Consequential benefits will follow.

(RAJIV NARAIN RAINA)
JUDGE

07.05.2019

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