

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.8488 of 2017

Date of Decision: 05.03.2019

Krishan Lal

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sandeep Thakan, Advocate, for the petitioner.

Mr.Siddharth Sanwaria, DAG, Haryana.

RITU BAHRI, J. (ORAL)

Petitioner is seeking quashing of the impugned order dated 27.08.2009 (Annexure P-6) and issuance of directions to the respondents to regularize the service of the petitioner as per office order dated 01.03.2005 (Annexure P-3) with all consequential benefits accrued in favour of the petitioner.

Brief facts of the case are that petitioner was appointed as daily wages in the year 1988 on the post of Labourer by the respondents department. His services were regularized w.e.f. 01.10.2003 vide office order dated 07.03.2007 (Annexure P-4). By way of present writ petition, he is seeking directions to the respondent to regularize his services at par with his junior who has been regularized vide order dated 01.03.2005 (Annexure P-3) . After his regularization, petitioner withdrew his claim which was raised before the labour Court. (Annexure P-5). The claim of the petitioner

is that he was found eligible for regularization w.e.f the year 1996. The

petitioner made a number of requests to the respondents-authorities to regularize him w.e.f. 01.02.1996 and vide order dated 27.07.2009 (Annexure P-6), his claim was rejected.

Petitioner has placed on record the order dated 09.12.2015 (Annexure P-8) and order dated 30.07.2015 passed in CWP No.8411 of 2013, whereby, claim of the petitioner for regularizing him w.e.f. 01.02.1996 was allowed.

The short question for consideration with regard to the stand of the respondents in the order dated 01.03.2005 (Annexure P-3). An information under Right to Information Act, 2005, has been placed on record by the petitioner with respect of Group-IV employees who services have been regularized w.e.f. 1993, 1996 and 2003 (Annexure P-8). The order passed by this Court (Annexure P-9) wherein, petitioner is challenging the date of regularization w.e.f. 01.02.1996 instead of 01.10.2003. In the present case, the claim of the petitioner is being rejected on the ground of delay and latches as it has been referred in the order dated 12.04.2016 passed in CWP No.18746 of 2012 titled as **Balwant Singh and others Vs. State of Haryana and others** and with regard to the order passed in CWP No.8928 of 2004 the case of the petitioner was considered by the Divisional Forest Officer, Sirsa vide order dated 01.03.2005, the same was decided to the effect that the services of the petitioner can be regularized under 1996 policy of regularization and that the case for creation of post was being sent to the competent authority for further necessary action and that he will be regularized when post becomes available. Accordingly, the case of the petitioner was sent to the

competent authority i.e. Principal Chief Conservator of Forests, through Conservator of Forests, West Circle, Hisar for further necessary action in the matter. The Principal Chief Conservator of Forests, Haryana, Panchkula sent the case of the petitioner to the Financial Commissioner and Principal Secretary to Government of Haryana, Forest Department for necessary action in the matter. Financial Commissioner and Principal Secretary to Govt. Haryana, Forest Department vide his memo dated 01.02.2007 order for creation of 7 posts of labourers in Group D in the pay scale of Rs.2550-3200 w.e.f. 01.10.2003. Accordingly, the services of the petitioner were regularized and he was appointed as a labourer in Group-D w.e.f. 01.10.2003 by the Divisional Forest Officer, Sirsa vide his office order dated 07.03.2007. Thus the petitioner is not entitled for regularization of his services w.e.f. 01.02.1996 as is being claimed by the petitioner.

Learned counsel for the petitioner has referred to the judgment in the case of **Pawan Kumar Vs. State of Haryana and others passed in CWP No.8411 of 2013** (Annexure P-9), the present case is squarely covered by the ratio decidendi in the aforementioned judgment in which, this Court while referring the judgment in the case of **Ram Dhari vs. The Chief Wild Life Warden, Haryana and another, 1996 (1) SLR 722**, the petitioner who was appointed in the year 1993 and he had completed 240 days' service in that subsequent year on 31.01.1996 and therefore, the petitioner is entitled to regularization of his service in the year 1996. Hence, in the present case also the services of petitioner ought to have been regularization as per policy of 1996 w.e.f. 01.02.1996 instead of

01.10.2003. In view of the judgment of Apex Court in the case of **Malathi Das (Retd.) Now P.B. Mahishy & Ors. Suresh & Ors. Passed in CIVIL APPEAL NO. 3338 of 2014**, regularization has to be given in Group D employees in parity and at par with his juniors and the claim cannot be rejected if the posts are not available. Once, the Department under the RTI information (Annexure P-8) has made regularization of employee as per 1993, 1996 and 2003 (Annexure P-8), the claim of the petitioner cannot be rejected on the ground that no sanctioned post was available.

In view of the above, present writ petition is allowed and respondents are directed to regularize the service of the petitioner w.e.f. 01.02.1996 with all consequential benefits as per order dated 01.03.2005 (Annexure P-3).

(RITU BAHRI)
JUDGE

05.03.2019
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No