

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-9112-CWP-2018 in/and
CWP No.12110 of 2003 (O&M)
Date of decision: 17.02.2020

Dilawar Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Sonak, Advocate,
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

Ritu Bahri, J.

CM-9112-CWP-2018

For the reasons mentioned in the application, main petition i.e.
CWP No.12110 of 2003 is taken up today itself for disposal.

Misc. application stands allowed accordingly.

CWP No.12110 of 2003 (O&M)

Petitioner is seeking quashing of the order dated 14.05.2003
(Annexure P-6), whereby his claim for regularization on the post of Water
Pump Operator, Grade-II, has been declined.

Learned counsel for the petitioner refers to the judgment passed
by this Court in Sanjeev Sharma and others vs. State of Haryana and
others, CWP No.15820 of 1998, decided on 17.11.2015 (Annexure A-1). In
that case, petitioners had been working as Water Pump Operators/Assistant

Pump Operators since 1989 to 1992 on daily wage basis. After serving for number of years, their cases for regularization were considered and they were regularized as Pump Attendants on the ground that they were not possessing the qualification of ITI. In that case, the Co-ordinate Bench of this Court referred to the judgments passed by the Division Bench of this Court in Abdul Kayyum and another vs. State of Haryana and others, CWP No.18974 of 1998 (decided on 26.09.2000) and Tej Parkash Gaur and another vs. State of Haryana and others, CWP No.19708 of 1998 (decided on 14.09.1999, wherein similar question had been decided in favour of the petitioner(s). It was held that if, they had been working on the posts of Water Pump Operators/Assistant Pump Operators (which is Class III post) for number of years, the department cannot insist that they did not have the requisite qualification of ITI for being regularized on the said posts. By following both these judgments, the above said petition has been allowed. Against the said judgment, LPAs filed by State of Haryana have been dismissed on 28.03.2017 (Annexure A-2).

Learned counsel for the petitioner informs that the judgments dated 17.11.2015 (Annexure A-1) and 28.03.2017 (Annexure A-2) passed by this Court have been complied with by respondent-State and services of the petitioners (therein) have been regularized w.e.f. 01.02.1996. SLP filed by State of Haryana is pending consideration.

Learned State counsel is not able to dispute the fact that aforesaid judgments (Annexures A-1 and A-2) have been complied with. His only argument is that SLP is still pending before the Hon'ble Supreme Court. However, no interim stay qua these judgments have been granted.

Water Pump Operator-II since 01.08.1990. His services were terminated on 01.10.1993. He challenged the termination order before the Labour Court and vide award dated 18.10.1999 (Annexure P-3), the Labour Court ordered reinstatement of the petitioner with continuity of service and full back wages. The said award was also upheld by this Court vide judgment dated 04.09.2000 passed in CWP No.7959 of 1999. Pursuant to the Labour Court award dated 18.10.1999 (Annexure P-3) and the judgment dated 04.09.2000 passed by this Court, petitioner was reinstated as Water Pump Operator-II on 18.01.2001. Thereafter, he made a request for regularizing his services on the post of Water Pump Operator-II w.e.f. 01.02.1996 along with other benefits i.e. pay, seniority etc. as per instructions dated 07.03.1996/18.03.1996. Claim of the petitioner has been rejected vide order dated 14.05.2003 (Annexure P-6) on the ground that he does not have the qualification of ITI, which was prescribed for Group-C (Class-III) post of Water Pump Operator, Grade-II, vide memo dated 10.03.1983 issued by the Superintending Engineer, Public Health Circle, Ambala.

This issue has already been considered by this Court vide judgment dated 17.11.2015 (Annexure A-1) by referring to the judgments passed by Division Bench of this Court in Abdul Kayyum and Tej Parkash Gaur's (supra).

Resultantly, the present petition is allowed in the same terms as in Sanjeev Sharma's case (supra) (Annexure A-1) and judgment dated 28.03.2017 passed in LPA No.907 of 2016 (Annexure A-2). Respondents are directed to regularize the services of petitioner w.e.f. 01.02.1996 as per instructions dated 07.03.1996 and 18.03.1996 (Annexures P-7 & P-8) along

months from the date of receipt of certified copy of this order and compliance report thereof, be sent to this Court.

17.02.2020
ajp

(RITU BAHRI)
JUDGE

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