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CM-12860-CWP-2019 in/&
CWP-13820-2011

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

CM-12860-CWP-2019 in/&
CWP-13820-2011

Date of Decision: 13th March, 2020

Dharminder Singh

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Alka Chatrath, Advocate,
for the petitioner.

Ms. Ambika Bedi, Asstt. A.G., Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

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Prayer in this application is for taking up the main writ petition on board for consideration and disposal of the same in the light of the judgments passed in CWP No.28332 of 2013, decided on 11.09.2017 (Annexure P-12) and in CWP No.23250 of 2014, decided on 28.09.2018 (Annexure P-13).

Notice in this application was issued on 18.09.2019.

Counsel for the State has made no objection to the prayer for taking up the main writ petition on board and disposal of the same.

In view of the above, the application is allowed and the main writ petition is taken on board for disposal.

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Petitioner has approached this Court for regularization of his services as per the Punjab Government Instructions dated 18.03.2011 (Annexure P-8) on the post of Radiographers. The claim of the petitioner was based upon the order dated 30.06.2011 (Annexure P-9), whereby the persons who were lower in merit than him in the select list were appointed earlier to the petitioner, whereas the petitioner despite being higher in merit having been given appointment letter at the subsequent date was treated as junior, in pursuance whereof the claim of the petitioner for regularization was not considered.

2. Learned counsel for the petitioner admits that during the pendency of the writ petition, services of the petitioner have been regularized w.e.f. 30.06.2011, however, she contends that the services of the petitioner as well as similarly placed employees/Radiographers need to be regularized w.e.f. 01.04.2011 as per the Punjab Government Instructions dated 18.03.2011 (Annexure P-8). Reference in this regard has been made to para 3 (2) (i) of the said instructions, wherein it has been stated that the employees, who are working on contract basis against the sanctioned post and who were appointed on fulfilling the prescribed qualifications/eligibility by adopting the proper procedure in a transparent manner, their services may be regularized w.e.f. 01.04.2011 or on completion of 3 years of service on contractual basis, whichever is later. Petitioner although has been appointed in the year 2009. Since persons who were lower in merit than the petitioner appointed even in the year 2006, the claim of the

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petitioner has to be considered from the said date taking it to be the date of appointment of the petitioner on contractual basis and then, counting the period of three years therefrom, which would not be in the year 2009. She asserts that on the basis of para 3 (2) (i) of the Punjab Government Instructions dated 18.03.2011 (Annexure P-8), services of the petitioners deserve to be regularized w.e.f. 01.04.2011. Prayer has, thus, been made for directing the respondents to regularize the services of the petitioner w.e.f. 01.04.2011. In support of this contention, counsel for the petitioner has placed reliance upon the judgment of this Court in CWP No.23250 of 2014, titled as 'Randhir Singh & others Vs. State of Punjab & another', decided on 28.09.2018 (Annexure P-13), where similarly placed employees as the petitioner but working as Multipurpose Health Workers have been granted the benefit of regularization with effect from the said date i.e. 01.04.2011.

3. On the other hand, counsel for the State submits that the persons, who were appointed prior to the date of appointment of the petitioner and although lower in merit than him have been regularized w.e.f. 30.06.2011. Since the persons who were otherwise juniors to the petitioner, have been granted the benefit of regularization with effect from the said date, petitioner also has been granted the same benefit and therefore, he is not entitled to the benefit as is being sought to be claimed by the petitioner.

4. I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case as also the relevant clauses of the Punjab Government Instructions dated 18.03.2011 (Annexure P-8).

5. Para 3 (2) (i) of the Punjab Government Instructions dated 18.03.2011 (Annexure P-8) reads as follows:-

“Those employees who are working on contract basis against the sanctioned posts and who were appointed on fulfilling the prescribed qualifications/eligibility by adopting the proper procedure in a transparent manner, their services may be regularized w.e.f. 1.4.2011 or the completion of 3 years of service on contractual basis whichever is later. However, for them new posts will not be created”

6. A perusal of the above would clearly indicate that an employee who had completed three years of service on contract basis would be entitled to regularization of the services in case the said period has already expired on 01.04.2011 and in case, on the said date i.e. 01.04.2011, the period of three years of contractual appointment has not come to an end from the date the said period expires. Admittedly, similarly placed employees who were lower in merit than the petitioner were appointed in the year 2006 as is apparent from the order dated 30.06.2011 (Annexure P-9) regularizing the services of those employees, the three years period would have expired much prior to the cut off date i.e. 01.04.2011 fixed in the Punjab Government Instructions dated 18.03.2011 (Annexure P-8). In the light of those instructions, petitioner is entitled to the regularization of his services w.e.f. 01.04.2011. This Court in *Randhir Singh's* case (supra) has also held the same.

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7. In view of the above, direction is issued to the respondents to regularize the services of the petitioners w.e.f. 01.04.2011. The said order be passed by the respondents within a period of four weeks from today. Petitioner will be entitled to all consequential benefits.

13th March, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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