

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

**CM Nos.14185-14186-CWP of 2018 in/and
CWP No.19163 of 2017 (O&M)
Date of decision: 17.02.2020**

Pawan Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Raman B. Garg, Advocate,
for the petitioners.

Mr. Harish Nain, AAG, Haryana.

Ritu Bahri, J.

CM No.14185-CWP of 2018

For the reasons mentioned in the application, same is allowed and the main petition i.e. CWP No.19163 of 2017 is taken up today itself for disposal.

CM No.14186-CWP of 2018

Additional affidavit is taken on record.

Misc. application stands allowed accordingly.

CM No.18984-CWP of 2018

Written statement filed on behalf of respondent Nos.1 to 4, along with Annexures R-1 to R-6, is taken on record.

Misc. application stands allowed.

CWP No.19163 of 2017

Petitiones are seeking quashing of the order dated 29.09.2016,

direction to regularize their services w.e.f. 01.10.2003 in terms of order dated 17.07.2014 (Annexure P-3).

Petitioner Nos. 1 to 7 have been working as Beldars on daily basis with respondent-department since 04.02.1996. Services of petitioner No.7 were terminated and he was reinstated with full back wages pursuant to the award passed by the Labour Court and judgment dated 08.08.2006 passed by this Court in CWP No.2507 of 2006. Petitioner No.8 has been working since 04.01.1995 with some breaks. Vide order dated 17.07.2014 (Annexure P-3), services of the petitioners were regularized w.e.f. 01.10.2003 and they joined at the respective places as per posting order dated 24.07.2014 (Annexure P-4). Thereafter, vide order dated 07.08.2014 (Annexure P-5), regular appointments of the petitioners were cancelled. Aggrieved by the said order, petitioners approached this Court by filing CWP No.15978 of 2014, which was disposed of vide order dated 02.03.2016 (Annexure P-8) and order dated 07.08.2014 (Annexure P-5) was quashed. However, liberty was granted to the respondents to pass a fresh order only after complying with the principles of natural justice. Eventually, vide order dated 29.09.2016 (Annexure P-12), their claim for regularization w.e.f. 01.10.2003 was again rejected. The reasons for not regularizing the services of the petitioners are as under:-

Sr. No.	Condition of Regularization	Whether the conditions are fulfilled or not	Remarks
1	He must be engaged before 31.01.1996	Petitioners were engaged on 04.02.1996	Do not fulfill the condition of regularization
2	He must have completed three years continuous satisfactory service as on 01.10.2003.	Fulfilsl the condition as per order of Labour Court, Gurgaon.	Fulfills the criteria under Policy 2003.

Sr. No.	Condition of Regularization	Whether the conditions are fulfilled or not	Remarks
3	He must have completed 240 days service in each year.	Fulfills the condition as per order of Labour Court, Gurgaon	-do-
4	He must be present on 01.10.2003	Fulfills the condition as per order of Labour Court, Gurgaon.	-do-
5	Break in service should not exceed 30 days at time	Fulfills the condition as per order of Labour Court, Gurgaon.	-do-

Learned counsel for the petitioners has placed on record judgment dated 11.04.2016 passed by this Court in **Veermati vs. State of Haryana and another**, CWP No.16044 of 2005 (Annexure P-25). In this judgment, reference was made to a judgment passed by Division Bench of this Court in **Ajit Singh vs. State of Haryana and others**, CWP No.9708 of 2004 (decided on 04.02.2015), wherein condition No.8 of the notification dated 10.02.2004 was held to be unreasonable and arbitrary. The Division Bench had held that the daily wager, who has put in five years of service, cannot be denied the benefit of regularization on the ground that three years should have been completed on one date i.e. 30.01.1996.

In the present case, the only condition for regularization, which the petitioners do not fulfill, is that they were engaged after 31.01.1996.

Learned State counsel has argued that one of the petitioners namely Tej Ram (petitioner No.8) does not fulfill the eligibility qualification of middle class. However, this condition has been reflected in the Regularization Policy of 2014. Petitioners' case has to be considered keeping in view that they have been working since 04.02.1996. Moreover, as per award passed by the Labour Court, they were granted

continuity of service. As per judgment passed by this Court in **Veermati's**

case (supra), condition cannot be put by fixing a particular date i.e. 30.01.1996 because they had already completed more than three years up to 01.10.2003. Present case is squarely covered by the aforesaid judgments passed by this Court.

In view of the above discussion, impugned order dated 29.09.2016 (Annexure P-12) is set aside and the respondents are directed to pass appropriate order regularizing the services of the petitioners as per Regularization Policy dated 01.10.2003 keeping in view the decision given by Division Bench of this Court in **Ajit Singh's** case (supra) along with all consequential benefits, within a period of three months from the date of receipt of certified copy of this order.

Allowed accordingly.

17.02.2020
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No