

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

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Civil Writ Petition No.24122 of 2016
Date of Decision: January 13th, 2020

Nanak Dass

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.K. Arora, Advocate
for the petitioner.

Ms. Anu Pal, Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

On 08.12.2017, following order was passed:-

CM No.17749-CWP of 2017

Application is allowed, as prayed for.

*Copy of judgment dated 05.04.2017 passed by
JMIC, S.B.S. Nagar, order dated 25.08.2017 and
representation dated 11.09.2017 are taken on record as
Annexures P-8, P-9 and P-10 respectively.*

*Documents already stand furnished to learned State
counsel.*

Application disposed of.

Main Case

*Pleadings on record indicate that the petitioner was
engaged as a Beldar under the Punjab Forest Department
on daily wage basis in the year 1976. Vide order dated
28.10.2011 benefit of regularization in service was
accorded to the petitioner. It so transpires that in an
exercise of verification of antecedents of the petitioner, it*

was found that the petitioner was involved in FIR No.31 dated 10.05.2011. On the basis thereof, order dated 13.01.2012 was passed by the Forest Division Officer, Jalandhar and, accordingly, the benefit of regularization was withdrawn.

At that stage, petitioner filed CWP No.11715 of 2016 impugning the order dated 13.01.2012 withdrawing the benefit of regularization. The aforementioned writ petition was disposed of by this Court on 02.06.2016 in the following terms:-

“The petitioner seeks the quashing of the order dated 13.01.2012 (Annexure P-4) passed by the Forest Division Officer, Jalandhar, whereby on account of lodging of FIR No.31 dated 10.05.2011, the appointment order dated 28.10.2011 (Annexure P-2) was cancelled with the condition that in case of decision on the said FIR, his request for regularization would be considered.

Counsel submits that against the said order, he filed a representation to the Chief Conservator, Bist Circle, Punjab on 29.07.2013 (Annexure P-5) that the FIR had nothing to do with his service and was lodged on account of a private dispute inter se the villagers. Therefore, his regularization should be restored. It is, accordingly, contended that the petitioner is in service since 1976 and is due to retire in 2018 and would be adversely affected on account of the withdrawal of the regularization order. Mere registration of a criminal case

would not disqualify him, specially in view of the fact that it had nothing to do with his official work. Reference was made to the judgment of the Division Bench in 'Dinesh Kumar Vs. State of Haryana and others' 2007 (2) SLR 293.

Counsel submits that he would be satisfied if a decision is taken on the representation dated 29.07.2013 (Annexure P-5) within a time-bound frame. Notice of motion.

On the asking of the Court, Mr. R.S. Sidhu, AAG, Punjab accepts notice on behalf of the respondents. Adequate number of copies have been supplied to him.

Keeping in view the above facts, this Court does not feel it necessary to call upon the respondents to file reply, since the decision making is still in progress.

Without commenting on the merits of the case or the entitlement of the petitioner, the present writ petition is disposed of with a direction to the respondent No.3 to decide the above said representation within a period of 3 months from the receipt of the certified copy of this order.

With the aforesaid observations, the present writ petition stands disposed of.”

Instant writ petition has been filed impugning the order dated 05.10.2016 (Annexure P-6) of the Conservator of Forests, Shivalik Circle, S.A.S. Nagar, Punjab which has been passed in purported compliance of the directions

issued by this Court on 02.06.2016 in CWP No.11715 of 2016 and a view has been taken that services of the petitioner cannot be regularized on account of the pendency of the criminal proceedings and involvement of the petitioner in the FIR.

During pendency of the present writ petition further developments have taken place. Vide decision dated 05.04.2017 (Annexure P-8) passed by the trial Court, petitioner has earned acquittal in the criminal proceedings. Based upon acquittal, a subsequent order dated 25.08.2017 (Annexure P-9) has been passed thereby treating the petitioner as a regular Beldar with effect from the date of passing of the order.

Prima facie this Court is of the view that the benefit of regularization had to relate back to 28.10.2011 when the petitioner had been regularized. The order dated 28.10.2011 had been withdrawn only on the basis that the petitioner was involved in FIR No.31 dated 10.05.2011.

The criminal proceedings that ensued upon registration of FIR No.31 dated 10.05.2011 have culminated in the acquittal of the petitioner.

Under such circumstances, there would be no basis for the petitioner to be denied benefit of regularization as also all other admissible consequential benefits for the period 28.10.2011 till the date of passing of the order dated 25.08.2017 (Annexure P-9).

Matter is posted for further consideration on

05.03.2018.

In the meanwhile, respondent No.2-The Principal, Chief Conservator of Forest, Punjab is directed to re-examine the matter in the light of observations made by this Court and to ensure passing of an order afresh.

Needful be done prior to the adjourned date.

The directions contained in this order for passing an order afresh are being issued being alive to the factual premise that the petitioner is a Class-IV employee and is due to superannuate in October, 2018.

A copy of this order be furnished to learned State counsel under the signatures of the Bench Secretary.”

In pursuance to the said order, short affidavit dated 15.10.2018 of the Divisional Forest Officer, Forest Division, Nawanshahr at Garhshankar, has been filed, according to which the services of the petitioner have been regularized practically with effect from 28.10.2011, the initial date of passing of the order of his regularization but has not been granted the financial/consequential benefits, which is not sustainable in the light of the fact that the petitioner was although regularized in service vide order dated 28.10.2011 but the said order was withdrawn merely because of a criminal case pending against him vide order dated 13.01.2012, in which the petitioner ultimately stood acquitted in the criminal proceedings vide judgment dated 05.04.2017 (Annexure P-8) and, therefore, the basic reason why the order of regularization of the services of the petitioner was withdrawn could not sustain. Petitioner admittedly has been performing the duties of the post.

If that be so, the denial of the consequential benefits including financial to the petitioner by the respondents with effect from initial date of his regularization cannot sustain and is hereby set aside.

Direction is issued that the petitioner be granted the consequential benefits treating him to be regularized in service with effect from 28.10.2011 as per the order dated 28.10.2011 (Annexure P-2).

The financial benefits be released to the petitioner within a period of three months from today.

The writ petition stands disposed of accordingly.

January 13th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No