

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

CWP No.22432 of 2017

Date of Decision: 28.02.2020

Manohar Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Rohit Ahuja, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

RITU BAHRI, J. (ORAL)

Petitioner is seeking direction to the respondents to regularize his services from the date, his juniors have been regularized.

Manohar Singh-petitioner was engaged as Peon-cum-Beldar on daily wage basis on 01.09.1991. However, his services were terminated w.e.f. 01.10.1996. Vide award dated 16.01.2001 (Annexure P-1) passed by the Labour Court, he was ordered to be reinstated with continuity of service along with 50% back wages from the date of demand notice i.e. 27.03.1998 till reinstatement. This award was challenged by the respondents by filing CWP No.12267 of 2001, which was dismissed vide order dated 29.08.2002.

Learned counsel for the petitioner has referred to the order dated 20.09.2004 (Annexure P/3-A), whereby similarly situated employees have been regularized w.e.f. 01.10.2003.

Respondents, in their written statement, are not disputing the order dated 20.09.2004 (Annexure P/3A). Learned counsel for the

respondents has argued that after passing of the award dated 16.01.2001

(Annexure P-1), petitioner had joined on 01.10.2002 and there is a gap of more than one year after passing of the award.

This argument is liable to be rejected because against the award passed by the Labour Court, respondent-State had filed CWP No.12267 of 2001, which was dismissed vide order dated 29.08.2002. During the pendency of said petition, petitioner could not join and after dismissal of the aforesaid petition, he joined on 01.10.2002. There was gap of only one month after dismissal of the writ petition, when the petitioner had joined. Procedural delay cannot be attributed to the petitioner. Moreover, the award passed by the Labour Court has attained finality.

Learned counsel for the respondents further argued that the petitioner does not fulfill the qualification and there was no sanctioned post available.

Recently, Hon'ble the Supreme Court in **Sheo Narain Nagar and others V/s. State of Uttar Pradesh and others**, 2018 AIR SC 233 was considering case of daily wagers who were employed in the month of August, 1993. Thereafter they were appointed on contractual basis in the year 1996 and in the year 2000 they were appointed as regular employees on the minimum pay scale. Thereafter vide order dated 25.07.2006, they were given status of temporary employees with retrospective effect from 01.01.2002. They approached the High Court for regularization of their services but the Single Judge of the High Court dismissed the writ petition seeking regularization. The Division Bench of the High Court also affirmed that order. Thereafter in the year 2014, their services were terminated. The Supreme Court while referring to judgment of ***Secretary, State of Karnataka and others V/s. Umadevi and others, (2006) 4 SCC 1***, held that

the petitioners had been working since 1993 and as one time measure, they had right to be considered for regularization. It was not a case of back door entry or illegal appointment. The Supreme Court rejected the argument of learned counsel for the respondent that it was not the case of irregular appointment but of illegal appointment, since there was post available on which the services of those daily wagers could be regularized.

In the facts of the present case, after dismissal of the writ petition, petitioner joined on 01.10.2002. For all intents and purposes, petitioner's service has to be taken as continuous service from the date of termination till he was reinstated on 01.10.2002. Petitioner has a right to be considered as per Policy of Regularization dated 01.10.2003 (Annexure P-3).

In view of the above discussion, this petition is allowed and the respondents are directed to regularize the services of the petitioner at par with his juniors, who have been regularized vide order dated 20.09.2004 (Annexure P-3-A) w.e.f. 01.10.2003 keeping in view the Policy of Regularization dated 01.10.2003 (Annexure P-3) with all consequential benefits along with interest at the rate of 6% per annum. This exercise be completed within a period of three months from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

28.02.2020
ajp

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