

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

**CWP No.26929 of 2016
Date of decision: 14.02.2020**

Shashi Kapoor

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rakesh Nagpal, Advocate,
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

Ritu Bahri, J.

Petitioner is seeking quashing of the orders dated 27.10.2016 & 21.11.2016 (Annexures P-6 & P7), whereby his claim for regularization of services w.e.f. 01.10.2003 has been rejected.

Facts not in dispute between the parties are that the petitioner was appointed as Beldar under respondent No.4 on 31.08.1998. However, his services were terminated on 06.06.2000. Against the said order, petitioner approached the Labour Court and vide Award dated 19.01.2005 (Annexure P-1), he was reinstated with continuity of service and 50% back wages from issuance of demand notice dated 7.09.2000. Respondent-State challenged the said award by filing CWP No.11361 of 2005, which was dismissed by this Court on 26.07.2005 (Annexure P-2). Thereafter, on 17.01.2007, name of the petitioner along with one Lal Bahadur was recommended for regularization. Their case for regularization was further recommended by respondent No.4 to respondent No.2 on 25.04.2007 (Annexure P-3) in terms

of instructions dated 01.10.2003 and 10.02.2004. Consequently, vide order dated 04.07.2007 (Annexure P-4), services of the petitioner were regularized on the post of Attendant-cum-Peon w.e.f. 01.05.2007. Thereafter, petitioner served a legal notice dated 01.07.2016 (Annexure P-5) upon the respondents seeking regularization of his services w.e.f. 01.10.2003 keeping in view that services of one Lal Bahadur, whose name was recommended along with the petitioner, have been regularized w.e.f. 01.10.2003 vide order dated 11.05.2016. However, vide orders dated 27.10.2016 & 21.11.2016 (Annexures P-6 & P7), claim of the petitioner has been rejected.

The petitioner is claiming parity with one Lal Bahadur, whose name for regularization was recommended along with him (petitioner) as per letter dated 25.04.2007 (Annexure P-3). Services of Lal Bahadur have been regularized w.e.f. 01.10.2003 vide order dated 11.05.2016.

Even the regularization order dated 04.07.2007 (Annexure P-4) is being taken to be against the policy dated 01.10.2003. It is stated that the matter has been inquired into to take appropriate action against the wrong doers. With respect to the case of Lal Bahadur, learned State counsel has stated that he was engaged on daily wage basis prior to 31.01.1996 and the petitioner was engaged on 31.08.1998/01.09.1998 and there is no similarity in their cases. He further stated that the petitioner cannot claim parity with Lal Bahadur.

Petitioner, along with his replication, has placed on record a decision given in **Ajit Singh vs. State of Haryana and others**, CWP No.9708 of 2004, decided on 04.02.2015 (Annexure P-10), whereby the Division Bench of this Court has considered that in the regularization policy dated 01.10.2003, an amendment was made vide notification dated

10.02.2004, whereby services of only those daily wagers could not regularized, who had been engaged before 31.01.1996. Introduction of change of cut off date i.e. 31.01.1996 in the subsequent notification was considered to be arbitrary and unreasonable.

As per judgment passed by the Division Bench of this Court in Ajit Singh's case (supra), even if the petitioner was appointed in the year 1998, but as per policy of regularization dated 01.10.2003, he had completed three years in 2001. He had been engaged in the year 1998. Hence, the petitioner has a right to be considered for regularization as per policy dated 01.10.2003. Stand of the respondents that even the order or regularization dated 04.07.2007 (Annexure P-4) was not as per the policy dated 01.10.2003 is being rejected.

Resultantly, the impugned orders dated 27.10.2016 & 21.11.2016 (Annexures P-6 & P7) are quashed. The respondents are directed to consider the case of petitioner afresh for regularization of his services in view of the judgment passed in Ajit Singh's case (supra) and notification/policy dated 01.10.2003 without insisting that he should be in service from 31.01.1996 and thereafter, pass appropriate order regularizing his services, within a period of three months from the date of receipt of certified copy of this order. Compliance report thereof be sent to this Court.

Allowed accordingly.

(RITU BAHRI)
JUDGE

14.02.2020
ajp

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