

IN THE HIGH COURT OF PUNJAB ANDHARYANAAT
CHANDIGARH

1. **CWP No. 5276 of 2016**

SOM NATH AND ORS.Petitioners

vs.

STATE OF HARYANA AND OTHERSRespondents

2. **CWP No. 6350 of 2016**

SATISH KUMARPetitioner

vs.

STATE OF HARYANA AND OTHERSRespondents

Date of decision:-31.01.2020

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. J.S. Chahal, Advocate
for the petitioners.

Mr. Randhir Singh, Advocate
for State of Haryana

RITU BAHRI, J.(Oral)

This order shall dispose of the above two petitions as common question of facts are involved in the above petitions wherein challenge is to order dated 24.09.2014 with a further prayer for issuance of directions to the respondents to regularize the services of the petitioners to the post of WPO-II/APO in Group C w.e.f 01.02.1996 along with all consequential benefits. However, the facts are being taken from CWP No. 5276-2016.

At the very outset, learned counsel for the petitioners has referred to ***judgment dated 19.12.2015 (P-19) passed in CWP No. 21929-2012 and connected matters titled as Sanjeev bagga and others vs. State of Haryana and others***, wherein similar issue came up for consideration.

The petitioners in those cases were engaged as Water Pump Operator on daily wages basis between the year 1989 to 1990. Their services were ordered to be regularized on the basis of policy dated 18.03.1996 but not as WPOs, which is class III post, but as pump attendants, a class IV post. The writ petition was allowed and impugned order was set aside. The operative part of the judgment reads as under:-

*“A combined reading of the afore-quoted judgments in **Abdul Kayyum's case (supra)** and **Tej Parkash Gaur's case (supra)** settles the law in favour of the petitioners as it has been conclusively held therein that persons like the petitioners, who are working as WPOs – a Class III post, are required to be regularized against such posts and not against Class IV posts of Pump Attendants.*

*The issue of delay has been raised on behalf of the State of Haryana to deny relief to the petitioners. Counsel for the State has submitted that the cause of action in the case of the petitioners arose in the year 1996, whereas the petitioners made their first representation only in the year 2008. To buttress her submission, reliance is placed upon a judgment of this Court in **Krishan Kumar and others vs. State of Haryana and others - C. W. P. No. 9813 of 2012**, decided on **21.11.2014**.*

The facts on record reveal that the representation by the petitioners made in the year 2008 was favourably considered by the State itself and relief of regularization of their services on the posts of WPOs with retrospective effect from 01.02.1996 was

*granted to them. This benefit granted to the petitioners was withdrawn in the year 2012, which gave them a fresh cause of action. No such situation was there in **Krishan Kumar's case (supra)** and thus, the cited judgment is distinguishable on facts.*

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*fresh cause of action. No such situation was there in **Krishan Kumar's** case (**supra**) and thus, the cited judgment is distinguishable on facts.”*

The petitioners then approached respondent No. 2 and the claim of the petitioners was rejected, vide impugned letter dated 24.09.2014. The grievance of the petitioners that they were appointed as DPO-II/APO and are performing the duties of water pump operator and fulfill the requisite qualification for the post of WPO-II/APO. Further the service of juniors to them have been regularized to the post of WPO-II/APO w.e.f 01.02.1996 along with all consequential benefits vide Annexure P-10.

On the other hand, learned State counsel is relying upon judgment of Hon'ble the Supreme Court of India in a case of **Babu Ram vs. State of Haryana and others, passed in SLP (Civil) No. 11261-2002, decided on 08.09.2003 (R-2)** whereby petitioners were denied regularization of their services, on a specific post because the petitioners were not possessing the requisite qualifications. Learned State counsel has further submitted that there is delay in approaching this Court.

Heard learned counsel for the parties.

The argument with regard to delay is liable to be rejected, keeping in view judgment of **Krishan Kumar and others vs. State of Haryana and others - C. W. P. No. 9813 of 2012, decided on 21.11.2014.**

The respondents in their reply had admitted that the services of juniors to the petitioners have been regularization but now the regularization orders have been withdrawn, as the same was got issued in connivance with some officials/officers of the department.

Once the judgment *dated 19.12.2015 (P-19)* had attained finality and even the services of the petitioners in those petitions, have been regularized, as per statement made by learned State counsel in COCP No. 660-2016, decided on 07.11.2017, therefore, the services of the present petitioners is also liable to be regularized. In the present case, a meeting was held of all the Supdt Engineers of the department with respondent No. 2, wherein it was decided that the data base information of those employees be prepared and sent to EIC office on 23.07.2012, who were working on Group C post when initially appointed on mustar roll/casual labour and later regularized on group D post due to certain reasons, as per letter dated 20.07.2012 (P-8). Thus, the department itself has sought the details of the candidates for granting the benefit, pursuant to judgment *dated 19.12.2015 (P-19)*. On the ground of delay alone, the case of the petitioners cannot be rejected. There is no ground to deny the legitimate right of the petitioners, keeping in view *judgment dated 17.11.2015 (P-18) and dated 19.12.2015 (P-19)*

In view of the above discussion, the writ petition is allowed and order dated 24.09.2014 is set aside. The respondents are directed to regularize the services of the petitioners on Group C post at par with the juniors, keeping in view *judgment dated 17.11.2015 (P-18) and dated 19.12.2015 (P-19)*, with all consequential benefits.

31.01.2020
G Arora

(RITU BAHRI)
JUDGE

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