

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

CWP No.9742 of 2016 (O&M)

Date of Decision: 30.01.2020

Surender Singh and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ram Niwas Sharma, Advocate,
for the petitioners.

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

RITU BAHRI, J. (ORAL)

Vide order dated 09.12.2014 (Annexure P-2), services of all the petitioners in the present petition along with other daily wagers were regularized w.e.f. 01.05.2005. A perusal of this order shows that employees, who were senior to the petitioners, were regularized w.e.f. 01.10.2003 and on account of non availability of posts, services of the petitioners have been regularized w.e.f. 01.05.2005.

Learned counsel for the petitioners contends that the petitioners had a right to be given the benefit of fixation of salary along with arrears w.e.f. 01.05.2005. After regularization, their pay has been fixed vide order dated 09.12.2014 (Annexure P-3 Colly.). However, arrears have been granted w.e.f. 09.12.2014.

Upon notice, reply on behalf of the respondents has been filed. Along with the reply, they have placed on record copy of order dated 25.10.2016 (Annexure R-1), whereby petitioner Surender Kumar had been

dated 13.08.2015 & 04.04.2016 (Annexures R-2 to R-8) have also been placed on record to show that after fixing the pay of petitioners, benefit of 1st, 2nd and 3rd ACP has also been granted. However, the financial benefit has been granted w.e.f. 09.12.2014.

Grievance of the petitioners is that once, a conscious decision has been taken to regularize their services w.e.f. 01.05.2005 as per order dated 09.12.2014 (Annexure P-2), for all intents and purposes, they had a right to be given the benefit of fixation of pay w.e.f. 01.05.2005. It is not the case that the petitioners had not worked on their respective posts from 01.05.2005. Moreover, they have been regularized as per policy dated 01.10.2003. Regularization has been done w.e.f. 01.05.2005 on account of unavailability of vacant posts. Petitioners have been working since 1995 and it was the duty of the respondents to regularize their service at appropriate time.

Learned State counsel has argued that pursuant to the orders passed by this Court in CWP Nos.22866 of 2011, 22885 of 2011, 26220 of 2013, 10017 of 2011, cases of the petitioners have been considered and they have been regularized accordingly. Hence, they cannot claim salary before the date of regularization.

This argument is liable to be rejected as the petitioners, as per order dated 09.12.2014 (Annexure P-2), have been working since 1995. They had a right to be considered as per policy of regularization dated 01.10.2003 by the respondent authority at appropriate time. Rather, they had to approach this Court by filing CWP Nos.22866 of 2011, 22885 of 2011, 26220 of 2013, 10017 of 2011 and thereafter, their services have been regularized. Petitioners have been working on their respective posts since

1995 and they have a right to be given the benefit of 1st, 2nd and 3rd ACPs as well.

In view of the above discussion, this petition is allowed and the respondents are directed to give arrears of salaries to the petitioners w.e.f. 01.05.2005 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 and compliance report thereof, be sent to this Court.

(RITU BAHRI)
JUDGE

30.01.2020
ajp

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