

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9051-2017

Date of decision: 21.01.2020

Nathu Ram

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

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

Mr. Harish Nain, AAG, Haryana.

RITU BAHRI, J. (Oral).

By this petition, the petitioner is seeking quashing of impugned order dated 16.12.2016 (Annexure P-8) whereby his claim for regularization of services had been rejected.

The petitioner was initially appointed on daily wages on 01.04.1991 as daily wager. The services of the petitioner was terminated and vide award dated 07.08.1997 passed by the labour Court, he was reinstated with continuity of service and 75% backwages. On 14.06.2004 his services were again terminated. Vide order dated 23.01.2014 passed by labour Court (Annexure P-1), he was reinstated with continuity of service and 50% backwages.

A perusal of the award dated 23.01.2014 (Annexure P-1) shows that the petitioner had led sufficient evidence to show that before termination in the year 2004, he had worked from 13.07.1998 continuously till 14.06.2004 under different Forest Guards. The details of his work had

been mentioned in para 8 of the labour Court award dated 23.01.2014 (Annexure P-1), on the basis of which the labour Court had returned a finding that the petitioner had worked continuously w.e.f. 01.04.1991 to 14.06.2004 for a period of 13 years and two months and had worked continuously for more than 240 days in the last 12 preceding calendar months from the date of his termination. He was awarded continuous service from 2004 till reinstatement. For all intents and purposes, his services for regularization has to be considered from 01.04.1991 to 23.01.2014 as per the date of the award i.e. 23.01.2014.

The petitioner had also placed on record orders passed by the authorities (Annexure P-1/A dated 02.12.2012) whereby services of the daily wagers who were appointed after the petitioner have been regularized.

Learned counsel for the petitioner has further referred to judgment passed by this Court in ***CWP No. 1381 of 2011 titled as Sukhpal son of Shri Sunehra Singh V/s. State of Haryana and others*** (Annexure P-10) whereby directions have been issued to regularize the services of the petitioner w.e.f. 01.10.2003 when the persons junior to him have been regularized.

In the present case, the case of the petitioner for regularization has been rejected vide order dated 16.12.2016 (Annexure P-8) on the ground that he did not fulfill the condition of 240 days in view of the regularization policies. In the written statement, the details given of working days in 2001, 2002, 2003 and 2004 are also not in accordance with the record. Further the ground taken that he was not appointed through proper channel has to be rejected and even the ground that he has not completed 240 days before 2004 is also rejected because the petitioner had

led sufficient evidence before the labour Court in this regard. The respondents are also not denying in the written statement that the persons junior to the petitioner have already been regularized.

Writ petition is allowed and order dated 16.12.2016 (Annexure P-8) is set aside. The respondents are directed to regularize the services of the petitioner w.e.f. 01.10.2003 with all consequential benefits. Further costs of Rs.2 lacs will be deposited by the respondents in the account of the petitioner. This costs is being imposed only on the ground that Department is adopting pick and choose policy for regularization of services. The juniors have already been regularized despite the fact that the two labour Court awards is in favour of the petitioner. This exercise will be completed within a period of one month from the date of receipt of certified copy of this order and the compliance of this order be informed to this Court.

(RITU BAHRI)
JUDGE

21.01.2020

Divyanshi

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No