

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**LPA No.1845 of 2017(O&M) in**

**CWP No.17965 of 2013**

**Date of Decision:-08.01.2020**

**State of Haryana & Ors.**

.....Appellants.

Versus

**Sultan Singh & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH  
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. Shruti Jain Goyal, Deputy Advocate General,  
Haryana.

Mr. Parveen Bhardwaj, Advocate for respondents.

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**JASWANT SINGH, J.**

Appellant-State of Haryana has filed the instant Letters Patent Appeal under Clause X, seeking setting aside of the Judgment dated 02.06.2017 passed by Single Judge, whereby the writ petition filed by 7 (seven) respondents who had sought quashing of order dated 18.03.2013 (P-8) has been allowed and consequently, it has been directed that respondents herein be regularized as soon as they complete two years of service from the dates of their joining by passing a fresh order.

Learned Counsel for the appellant-State has vehemently

argued that in the instant case, the finding returned by learned Single Judge

to hold that respondents are entitled for regularization of their services prior to 07.01.1998 is absolutely incorrect. She submits that services of petitioners were regularized w.e.f. 07.01.1998 vide order dated 15.11.2005 (P-4) in terms of Policy dated 23.03.1998. It is argued that after the said order dated 15.11.2005 was passed, the respondents did not agitate their rights for claiming regularization from a prior date for nearly seven years and have filed the writ petition after giving legal notice dated 25.06.2012. It is submitted that once an administrative order was passed by the Department, it was required to be challenged within a period of one year as per Article 100 of the Limitation Act, 1963. Since the said order was never put to challenge, even in the present writ petition, therefore the claim raised was barred by limitation. In support of her submission she relies upon the judgment of Apex Court in **State of Orissa Vs. Mamata Mohanty (2011) 3 SCC 436** and **State of Uttranchal Vs. Sri Shiv Sharan Singh Bhandari (2013)12 SCC 179**. She further relies upon the judgment of the Co-ordinate Bench dated 31.08.2016 passed in LPA No.1662 of 2015 wherein similar claim of retrospective regularization was rejected on ground that it is hit by delay and laches. It is submitted that since the order of regularization was passed in the year 2005, the *inter-se* seniority of the employees has been settled and the respective rights on the basis of said seniority have crystallized and without impleading all those employees whose seniority would be affected, the claim of the Respondents for an ante-dated regularization cannot even be considered. In this regard she relies upon the judgment of Hon'ble Supreme Court in **B.S. Bajwa Vs. State of Punjab (1998)2 SCC 523**. She argues that regularization policy dated 28.07.1994

issued, under which respondents have been regularized w.e.f. 07.01.1998, therefore, the impugned order passed by Single Bench, directing the appellants to pass a fresh order of regularization from the dates respondents had completed two years of service, is bad and, therefore, liable to be set aside.

On the other hand, learned Counsel for the respondents has supported the order passed by learned Single Judge and has submitted that there is no infirmity in the orders passed by Single Bench. It is argued that the respondents were entitled to be regularized in their services in terms of Policy dated 06.07.1994 itself and infact similarly situated employees have been granted relief by this Court vide judgment Annexure P-5 & P-6. Hence prayer has been made for dismissal of the appeal.

Having scrutinized the rival contentions raised by the parties and perused the record with their able assistance; we are of the considered opinion that the impugned Judgment passed by Single Bench is liable to be set aside.

Admittedly respondents were appointed as conductors on various dates between 06.07.1994 to 10.03.1995. At the said point of time, instructions dated 28.07.1994 were operational, however, as per the said instructions, only those drivers/conductors were to be regularized who had completed two years of service on contractual basis. Subsequently, the said instructions were withdrawn by the State Government on 17.11.1995 and it was categorically mentioned in the said instructions that the staff working on contractual basis would not be regularized under any circumstances. Since, respondents had not even completed 1 years of service, therefore,

Subsequently, policy dated 23.03.1998 was framed by the Government, whereby all the drivers/conductors who had completed 2 years of service on contractual basis during the period 16.06.1994 to 07.01.1998 were to be regularized subject to certain conditions. One of the condition under the Policy was “condition no.4” whereby any driver/conductor against whom any inquiry/disciplinary proceedings were pending will not be regularized till their cases were finalized. The services of respondents have been regularized vide order dated 15.11.2005 w.e.f. 07.01.1998 in terms of Policy dated 23.03.1998. It is seen that reason for such late confirmation was on account of various acts of omissions on their parts for which certain penalties were imposed on them.

Thus, from the facts noticed above, it becomes clear that no prejudice has been caused to respondents, who have been rightly regularized from the date when they became eligible under the Policy in existence at that time. The respondents cannot claim parity with the employees who were regularized under the 1994 Policy as the said employees had fulfilled the conditions prescribed therein. The judgments P-5 & P-6 relied upon by the respondents are not at all applicable to the facts of the instant case, as it is seen that petitioners therein had already completed 2 years prior to withdrawal of instructions dated 28.07.1994 on 17.11.1995.

Seen from another angle, the claim of respondents has even otherwise become time barred because their cause of action had arisen on the date when order dated 15.11.2005 was passed, which had admittedly not put to challenge till date, let alone within a period of one year from the date of said order, despite having knowledge of the same. Once that is so, any

barred by limitation and cannot be allowed in any eventuality. This view of ours is in consonance with the aforesaid judgments i.e. **State of Orissa Vs. Mamata Mohanty (supra) & State of Uttranchal Vs. Sri Shiv Sharan Singh Bhandari (supra)** relied upon by the learned State Counsel.

In view of the above, present appeal is **allowed** and consequently order dated 02.06.2017 passed by Single Bench is set aside. However, there shall be no order as to costs.

( JASWANT SINGH )  
JUDGE

( SANT PARKASH )  
JUDGE

January 08, 2020  
Vinay

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |