

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

L.P.A. No.33 of 2020 (O&M) in
Civil Writ Petition No.23094 of 2015
Date of decision: January 28, 2020

State of Haryana and another		...Appellants
	Versus	
Bhanu Dutt and another		...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Deepak Balyan, Addl. AG, Haryana
for the appellants.

HARINDER SINGH SIDHU, J.

1. The State of Haryana has filed this Letters Patent Appeal against the judgment dated 08.07.2019 in CWP No.23094 of 2015 titled 'Bhanu Dutt and another vs. State of Haryana and another' whereby, the writ petition filed by the respondents was allowed.
2. For the reasons stated in CM-71-LPA of 2020, the delay of 16 days in filing the appeal is condoned. Application stands allowed.
3. In the writ petition the respondents had assailed the order dated 14.10.2015 passed by the appellant whereby the order dated 07.07.2006 regularising their services, was withdrawn, their services were de-regularised and they were ordered to work on daily-wage basis.
4. The respondent No.1 and 2 were initially appointed as Mazdoor (Class-IV Post) on daily-wage basis in the Department of Printing and Stationery, Haryana on 01.07.1997 and 01.05.1997 respectively. Their

services were terminated on 01.11.1999. They raised an industrial dispute. The Labour Court, UT Chandigarh vide its award dated 22.12.2004 directed their reinstatement with continuity of service and 50% back-wages w.e.f the date of demand notice. Pursuant to the award of the Ld. Labour Court, the respondents were allowed to rejoin their duty vide letter dated 19.08.2005.

5. During the pendency of their reference before the Ld. Labour Court, the State of Haryana issued notification dated 01.10.2003 for regularising the services of all the employees working on adhoc/ contract/ daily-wages w.e.f. 01.10.2003 on their completing three years of service as on 30.09.2003. Subsequently, the State issued another notification dated 10.02.2004 amending the notification dated 01.10.2003 to the extent that only the daily-wage Group-C and Group-D employees engaged prior to 01.10.1996 would be regularised on fulfilling other conditions.

6. In terms of the notification dated 01.10.2003 the services of the respondents were regularised vide order dated 07.07.2006 as Class-IV employees in pay scale of Rs.2550-3200 as they had completed three years of service up to 30.09.2003.

7. Later, order dated 14.10.2015 was issued withdrawing the earlier order dated 07.07.2006 regularising their services on the ground that vide notification dated 10.02.2004 only those daily wage employees were to be regularised who were employed prior to 31.01.1996. As the respondents had been engaged after that date they were not entitled to regularisation and they were to be treated as daily-wage employees. This order was assailed by the respondents in the writ petition.

8. Ld. Single Judge allowed the writ petition relying on a Judgment of a Division Bench of this Court in **CWP No.9708 of 2004** titled “**Ajit Singh vs. State of Haryana and others**” wherein it was held that fixation of a cut-off date in the instructions dated 10.02.2004 was unreasonable and arbitrary. It was also held that the notification dated 10.02.2004 could not apply retrospectively, to take away the vested rights of those whose services had already been regularised prior to these instructions. The order dated 14.10.2014 was quashed. The respondents were held entitled to all consequential benefits by treating them to be regularised w.e.f., 01.10.2003.

9. We find no reason to disagree with the view of the Ld. Single Judge. The respondents were entitled to regularisation in terms of the notification dated 01.10.2003. Their rights for being regularised in terms of the said notification could not be taken away by issuing a subsequent notification.

10. There is no merit in the appeal.

11. Dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 28, 2020

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No