

**LPA No. 50 of 2020(O&M)
and other connected cases**

-1-

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

**LPA No. 50 of 2020(O&M)
Date of decision: 14.01.2020**

Anand Singh

... Appellant

Versus

State of Haryana and others

... Respondents

ii)

LPA No. 46 of 2020 (O&M)

Satish Kumar and others

... Appellants

Versus

State of Haryana and others

... Respondents

iii)

LPA No. 51 of 2020 (O&M)

Mahabir Singh and another

... Appellants

Versus

State of Haryana and others

... Respondents

iv)

LPA No. 58 of 2020 (O&M)

Shri Krishan

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Vikas Lochab, Advocate,
for the appellants.**

**AMIT KUMAR
2020.02.13 13:00
I attest to the accuracy and
authenticity of this document**

These are intra-court appeals, under Clause X of the Letters Patent, against a common judgment and order dated 2.5.2019, passed by the learned Single Judge, vide which writ petitions preferred by the appellants, have since been dismissed on account of delay and laches. The facts are being derived from LPA No. 50 of 2020 (Anand Singh Vs. State of Haryana and others), for this was the lead case in which the impugned judgment was rendered.

Appellant (Anand Singh) was appointed to the post of helper-cum-mechanic on daily wages basis on 3.6.1989. Pursuant to the instructions dated 7.3.1996, and letter No.3256-3306/CA5/C dated 25.3.1996, issued by the Transport Commissioner, Haryana, his services were regularised vide order dated 10.4.1996 w.e.f. 1.2.1996. However, later vide notice dated 12.8.2013, he claimed that his services ought to have been regularised from an earlier date, i.e. on completion of 240 days of continuous service from the date of his initial appointment, in terms of government instructions dated 19.2.1979. For the notice, the respondents were served with, was not responded to, he approached this Court vide CWP No. 27846 of 2013, which was disposed of on 18.12.2013, with a direction to the authorities to decide his claim. However, the respondents, vide order dated 25.6.2014 (Annexure P-5), in reference to paragraph No. 53 of the decision of the Supreme Court in **Uma Devi Vs. State of Haryana, 2006 (4) SCC 1**, as also paragraph No. 20 of the decision of this Court in **Rajinder Kumar Vs. State of Haryana 2006 (2) PLR 474**, wherein it was concluded that old cases regarding regularisation of services of drivers, conductors and workshop staff etc., could not be re-opened at a belated stage, rejected his claim. Whereupon, he

again approached this Court, vide a writ petition, which, as indicated above, has since been dismissed.

We have heard learned counsel for the appellants and perused the records.

Ex facie, services of the appellant were regularised, pursuant to an order dated 10.4.1996 w.e.f 1.2.1996. It is not disputed either that he raked up a dispute nearly after two decades, vide notice dated 12.8.2013, to claim regularisation from a prior date, i.e. from the date he completed 240 days of continuous service from the date of his initial appointment in the year 1989. Undoubtedly, pursuant to the order dated 18.12.2013 and directions issued by this Court in an earlier writ petition filed by the appellant, the respondents considered and rejected his claim, vide order dated 25.6.2014, but that too, under no circumstance, would wipe out the delay that had occurred since his regularization on 10.4.1996. Not just that, the order of rejection of his claim was passed by the authorities on 25.6.2014, which he assailed after over three years, vide a writ petition filed on 27.9.2017. Thus, even a civil suit under general common law against the said order would have been time barred. The learned Single Judge had placed reliance upon a decision rendered by the Division Bench of this Court in **LPA No. 1662 of 2015 (Sukhbir Singh and others Vs. State of Haryana and others)**, decided on 31.8.2016, wherein also services of the petitioners were regularised on 1.4.1993, but they approached this Court in the year 2012 to seek regularisation from an earlier date, i.e. on completion of 240 days of service. The said writ petition was disposed of, with a direction to the authorities to consider the claim of those petitioners, which was rejected

on 11.12.2014. Resultantly, the petitioners therein again approached this Court in the year 2015, but their writ petition was dismissed on the ground of delay and laches. The Division Bench, while affirming the decision of the learned Single Judge, concluded:-

“7. The fact that the appellants took no steps to claim the benefit of Government policy of 1979 for over 12 years is not in dispute. They cannot take the benefit of Jaimal Singh's case (supra) as the writ petitioners in that case had approached this Court in the year 1998 while the appellants remained fence-sitters. Even as per Jaimal Singh's case, there was no cutoff date for the purpose of regularization of services. Much was to depend upon as to how many posts were sanctioned in a depot. All the writ petitioners of that case were not made regular w.e.f. 01.04.1987.

8. Assuming that the appellants are similarly placed yet they lost their right as neither such claim was put up before the competent authority nor they approached any other forum within a reasonable period. In this view of the matter, the rejection of their claim by learned Single Judge on the ground of delay and laches calls for no interference by this Court.

9. Dismissed.”

Likewise, a decision of the Supreme Court in **State of UP and others Vs. Arvind Kumar Srivastava and others, 2015 (1) SCC 347**, was referred to, wherein it was held: fence-sitters who have waived their rights for long and acquiesced to a state of things would not be entitled to the benefit granted to other similarly situated persons, for they ceased to be similarly placed for the purposes of obligations in terms of Article 14 of the Constitution.

It would be apposite to point out, at this juncture, that similarly in **LPA No. 58 of 2020 (Shri Krishan Vs. State of Haryana and others)**, services of the appellant were regularised, vide order dated 18.4.2004, w.e.f. 1.10.2003, whereas, he raked up the dispute on 12.11.2013. In **LPA No. 46 of 2020 (Satish Kumar and others Vs. State of Haryana and others)**, services of the appellants were regularised w.e.f. 1.10.2003, and it was 14 years thereafter, they served the authorities with a legal notice dated 5.7.2017, to seek regularization, in terms of the instructions dated 19.2.1979. And, in **LPA No. 51 of 2020 (Mahabir Singh and another Vs. State of Haryana and others)**, services of both the appellants were regularised w.e.f. 1.10.2003, whereas, they sought regularization from an earlier date after 16 years.

Faced with this, learned counsel for the appellants referred to a decision of the civil court in **Civil Suit No. 180 of 2010 (Surat Singh Vs. State of Haryana and others)** [Annexure P-3], wherein the trial court had decreed the claim of the plaintiff for regularisation of service with effect from the date he completed 240 days, as also certain other decisions of this Court wherein similar directions were issued. But that too would not advance the case of the appellant, owing to the gross, inordinate and unexplained delay his claim suffered from. As demonstrated above, his services having been regularised w.e.f. 1.2.1996, and having drawn benefits therefrom all these years, he raked up a dispute nearly two decades thereafter. Likewise, the decision of the Supreme Court in **Dr. (Mrs.) Santosh Kumari Vs. Union of India, 1995 (1) SCC 269**, and decision of a Division Bench of this Court in **Satbir Singh Vs. State of Haryana, 2002**

(2) SCT 354, as also of a Single Judge in **Mithan Lal Gupta Vs. State of Haryana and others**, rendered in **CWP No. 21603 of 2016** on 09.01.2019, relied upon by the learned counsel for the appellants, in the given facts and circumstances, would have no application.

There is yet another dimension to the matter, as the specific case set out by the State was that services of the appellant were regularised w.e.f. 1.2.1996, whereas instructions dated 19.2.1979, pursuant where to the appellant was claiming regularization, were not applicable, for those instructions were issued for regularization of services of conductors, drivers and workshop staff up to the post of mechanic (Class III), who had been employed through Employment Exchange and had completed 240 days of service as on 19.2.1979. Thus, the appellant was not entitled to claim regularisation, in terms of instructions dated 19.2.1979, for he had neither completed 240 days of continuous service as on 19.2.1979, nor he was employed through Employment Exchange. Be that as it may, for the learned Single Judge dismissed the writ petitions on the ground of delay and laches, we do not deem it necessary to delve any further into this aspect.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment dated 02.05.2019, rendered by the learned Single Judge. Thus, the only and the inevitable conclusion that could be reached: the appeals being bereft of merit are dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

January 14, 2020

AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO