

201(11 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP No.31273-2018
Date of Decision: March 12, 2020

Kuldip SinghPetitioner
Versus
Haryana Power Generation Corporation Ltd. and others
.....Respondents

2. CWP No.32189-2018

Om ParkashPetitioner
Versus
Haryana Power Generation Corporation Ltd. and others
.....Respondents

3. CWP No.37748-2018

Mohinder SinghPetitioner
Versus
Haryana Power Generation Corporation Ltd. and others
.....Respondents

4. CWP No.37781-2018

Parbash ChandPetitioner
Versus
Haryana Power Generation Corporation Ltd. and others
.....Respondents

5. CWP No.37783-2018

Ramesh ChandPetitioner
Versus
Haryana Power Generation Corporation Ltd. and others
.....Respondents

6. CWP No.37834-2018

Kanwar PalPetitioner
Versus
Haryana Power Generation Corporation Ltd. and others
.....Respondents

7. CWP No.37851-2018

Mohammad IqbalPetitioner
Versus
Haryana Power Generation Corporation Ltd. and others
.....Respondents

8. CWP No.2191-2020

Ramesh ChandPetitioner
Versus
Haryana Power Generation Corporation Ltd. and another
.....Respondents

9. CWP No.3451-2020

Buchha RamPetitioner
Versus
Haryana Power Generation Corporation Ltd. and another
.....Respondents

10. CWP No.3506-2020

Amar NathPetitioner
Versus
Haryana Power Generation Corporation Ltd. and another
.....Respondents

11. CWP No.3511-2020

Jai SinghPetitioner
Versus
Haryana Power Generation Corporation Ltd. and another
.....Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.J.S.Maani pur, Advocate
for the petitioners.

Mr.Deepak Manchanda, Advocate
for the respondents.

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NIRMALJIT KAUR, J.

All the above mentioned writ petitions shall stand decided by this common order as the issue involved is identical. For convenience, the facts are being derived from CWP No.31273 of 2018.

The prayer in the present writ petition is for directing the respondents to grant the benefit of deemed date of regularisation w.e.f. 01.01.1988 instead of 09.10.1991 and also grant correct pay fixation with all

consequential benefits alongwith interest @ 9% p.a.

While praying for the said relief learned counsel for the petitioner submitted that the similar controversy for claiming the benefit of Clause (vi) of the policy dated 08.02.1988 was raised by similarly situated employees of other categories, who were working as work charge like him, vide Civil Writ Petition No.419 of 1998 “**Kamlesh Rani vs The Haryana State Electricity Board, Panchkula and others**” decided on January 30, 2001; in Civil Writ Petition No.18896 of 2001 “**Behari Parshad vs HVPNL**” decided on 20.12.2007, which was upheld in LPA No.200 of 2008 (**HVPNL vs Behari Parshad**), decided on 23.01.2009 (Annexure P-3) and further upheld by the Hon'ble Supreme Court of India in SLP No.12404 of 2009 “**HVPNL vs Behari Parshad**” vide order dated 06.07.2009 (Annexure P-4) and the same was followed in case of **Munshi Ram vs Haryana Vidyut Parsaran nigam Ltd. and others**”, Civil Writ Petition No.9440 of 2010 decided on 07.09.2011 (Annexure P-5), in case of “**Chameli Devi vs HPGCL**” Civil Writ Petition No.11530 of 2003 decided on 21.03.2012, and in Civil Writ Petition No.14080 of 2013 “**Lajwanti vs Haryana Vidyut Parsaran Nigam Ltd. and others**” decided on 19.05.2015 (Annexure P-6), widow of a deceased employee is entitled for Family Pension after considering the deceased employee as regular instead of work-charged with effect from 01.01.1988. Thus, in terms of the law laid down by this Hon'ble High Court as well as by the Hon'ble Supreme Court of India in the aforesaid cases, he is entitled to be regularised with effect from 01.01.1988 instead of 09.10.1991.

Reply has been filed. As per the impugned order as well as the

reply, claim of the petitioners was rejected on the ground that HSEB vide

memo No.Ch-54/NGE/G147/Projects, dated 12.11.1991 decided to abolish work charge establishment w.e.f. dated 1.1.1988 in Generation Projects at Faridabad, Panipat & Hydel, Yamuna Nagar. In view of above, it was decided to regularize the services of existing work charge employee. As per policy for regularisation, services of 788 nos. work charge employees in HSEB (circulated by additional Secretary, HSEB, Panchkula vide memo no.ch-54/NGE/G-147/Projects dated 12.11.1991) was regularised. 211 nos. employees were regularised against vacancy while remaining 577 nos. work charge employees were made regular by creating 'personal post' as one time measure. Further, 577 work charge employees were regularised after seeking their option for continuing as regular employee on 'Personal Posts' as one time measure. The said employee exercised their option and were accordingly allowed to work on personal post. Subsequently, the petitioner after almost 27 years, approached the authorities by way of legal notice, dated 08.01.2018, and sought regularisation w.e.f. 01.01.1988 instead of 09.10.1991.

Heard.

The argument of learned counsel for the petitioner that the decision does not affect the third party and, therefore, case of delay does not arise, deserves to be rejected in the facts of the present case. A perusal of **HVPNL vs Behari Parshad**(supra) relied on by the learned counsel for the petitioner shows that the petitioners in the said case had filed writ petition way back first in the year 1992 and thereafter again in the year 2001 after a direction was issued by the Lok Adalat. Therefore, there was no delay in the said case. The SLP was dismissed way back in the year 2009. Thereafter

but, at least, case was filed immediately after the decision of the SLP in 2009. Here, the writ petition has been filed for the first time now in the year 2018.

Moreover, an identical CWP No.3862 of 2002, titled as **Suresh Chand and others** vs **HPGCL**, came to be dismissed vide order dated 02.07.2015 on the ground that the petitioners in the said case had accepted the appointment on 'personal post' without any protest and that too after exercising their option. Therefore, they cannot make grievance of it after a period of almost ten years. Operative part of the said judgment reads as under:-

“The petitioners had earlier filed CWP No.1085 of 1991 claiming that they were governed by the policy of 1988 and prayed for the same. This Court disposed of that petition by directing the respondents to pass a speaking order. Pursuant to that the respondents asked the petitioners whether they wished to remain in work charge establishment or whether they were ready to accept regular appointment on personal posts since the number of persons was much higher than the sanctioned posts available. The petitioners opted for regular appointment on personal posts and were consequently issued appointment letters dated 21.01.1992. It is not disputed that as and when regular posts became available the petitioners were shifted to those regular posts and were considered encadred from the date they were so shifted to the regular posts. This writ petition was filed after 10 years in the year 2002 claiming that the respondents were not regularising their services from the year 1988.

In view of the facts mentioned above, I find no merit in the petition. In the first place the petitioners had exercised the option. In the second place they accepted the same and made a grievance about it after a period of more than 10

years.”

This Court finds nothing to distinguish the case of the present petitioner from that of Suresh Chand (supra). In that case, the delay was about ten years, whereas in the present case the delay is even more, i.e. of about 27 years.

Moreover, in the present case too, the petitioners had accepted their appointment on present post way back on 09.10.1991. They cannot turn around and challenge the date of appointment now in the year 2018.

Dismissed accordingly.

March 12, 2020
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(NIRMALJIT KAUR)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |