

306

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

CWP NO. 2748 of 1995

DATE OF DECISION : 06.12.2022

Ram Khiloni

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Lekhraj Sharma, Advocate,
For the petitioner.

Mr. R. D. Sharma, DAG, Haryana.

ARUN MONGA, J.(ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari for quashing the impugned order dated 22.12.1994 (Annexure P-4), whereby petitioner's claim for regularization was rejected. Further prayer is to reinstate the petitioner and regularize his services as per policy of State Government.

2. Succinct facts first. Petitioner was appointed as a daily wage worker vide appointment letter bearing No.1747 dated 01.01.1986 (Annexure P-1). He was deputed as water carrier at Sales Tax Check Barrier Hodal and is working as such since then. Services of the petitioner were not regularized whereas services of his juniors were regularized, compelling him to file CWP No. 4239 of 1994 along with others claiming regularization with effect from 31.03.1993 as per policy of State Government. It was mentioned in the writ petition that those daily wage workers who have completed five years of service on 31.03.1993, their services be regularized. The said writ petition was disposed of with

directions to the respondents to regularize the services of petitioners therein.

3. The Division Bench, while disposing of the writ petition No. CWP No. 4239 of 1994, passed the following order dated 24.04.1994 (Annexure P-4) :

“In the circumstances, we direct the respondents to decide the claim of the petitioners for regularization of their services as on 31.03.1993 in terms of the policy decision dated 27.05.1993. This exercise should be completed within one month from the date of receipt of copy of this order. In case the petitioners or anyone of them is found entitled to be regularized necessary orders the next 15 days. However, if it becomes necessary to dispense with the service of surplus employees, the respondents shall be at liberty to take appropriate steps in that regard in accordance with law.”

4. However, vide impugned order, the services of the petitioner were not regularized on the ground that he had been working on part time basis and therefore, he is not entitled to any benefit of policy decision and his services were dispensed with. Persons junior to petitioner have been granted the benefit of regularization. Position that emerges thus is that services of the petitioner were dispensed with on 22.12.1994.

5. Perusal of the above order dated 24.04.1994 shows that undoubtedly, the respondents were directed to decide the claim of petitioners therein (which also included the name of petitioner herein) and pass appropriate orders. In the penultimate paragraph of the order passed by the Division Bench, *ibid*, it was made clear that respondents had also been granted liberty to dispense with the services of surplus employees by taking appropriate steps in accordance with law. That is where the matter stood still and the petitioner seems to have acquiesced to his non-continuance in service from 22.12.1994. He preferred the instant writ petition merely seeking regularization on parity with other similarly

situated employees who were regularized pursuant to Division Bench order. The writ petition was admitted way back on 23.05.1996 and there was no interim protection granted to the petitioner qua dispensing with his services. Resultantly, after a lapse of 27 years, simple relief sought by the petitioner in respect of regularization, that too without continuance in service is highly stale and belated. He had rendered merely four years of service at the relevant time. It would be unfair to accord benefit of regularization to the petitioner, in light of the fact that for 27 years he has been working elsewhere for his livelihood. In any case, in a recent judgment rendered by Supreme Court in “***Managing Director, Ajmer Vidhyut Vitran Nigam Limited v. Chiggan Lal and others***” 2022 ***LiveLaw (SC) 296***, it has been held that regularization is not a matter of right, rather it is discretion of the employer to accord the benefit especially for those who have not been inducted in service by any selection process and are merely back door entrants. For ready reference, the relevant extract of the said judgment is reproduced herein below :

“xxx

9. *It is the settled position that the date from which regularization is to be granted is a matter to be decided by the employer keeping in view a number of factors like the nature of the work, number of posts lying vacant, the financial condition of the employer, the additional financial burden caused, the suitability of the workmen for the job, the manner and reason for which the initial appointments were made etc. The said decision will depend upon the facts of each year and no parity can be claimed based on regularization made in respect of the earlier years.*

xxx

12. *In view of the above, it is clear that the date of regularization and grant of pay scale is a prerogative of the employer/screening committee and no parity can be claimed in the matter of regularization in different years.*

xxx”

5. Learned counsel for the petitioner, while strenuously relying on a judgment rendered in CWP No. 2703 of 1995 titled “*Sohan Lal v. State of Haryana and others*” submits that similarly situated petitioners were accorded the relief by this Court.

6. The aforesaid judgment shows that in that case, the petitioner was found to be whole time worker while in present case, the petitioner was a part time employee. Moreover, in Sohan Lal’s case (supra), those who got relief were so granted immediately upon their being removed from service way back in the year 1997. The petitioner cannot, therefore, seek parity with those who were petitioners in the case, *ibid*, cited by his learned counsel.

7. In view of the above, no ground for interference by this Court is made out.

8. The instant writ petition stands dismissed.

DECEMBER 06, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No