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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16922-2015 (O&M)

Date of decision: August 10, 2022

Bhateri

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sandeep Thakan, Advocate the petitioner.

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing respondents to regularize the services of the petitioner w.e.f. 07.03.1996/ 18.03.1996 in terms of Government instructions issued by the State of Haryana, as respondent No.4, who is junior to the petitioner, has been regularized by respondents No.1 to 3 and to grant all consequential benefits accrued in favour of the petitioner.

2. Learned counsel for the petitioner relies on a decision dated 08.05.2015 rendered by this Court in **CWP-16325-2012** titled **Bhagirath and another versus State of Haryana and others**. In any case, same view has been expressed by me in another similar case bearing CWP-12961-1999 on 04.02.2022, where the workman was reinstated by the Labour Court with continuity in service along with consequential benefits. Reference may be had to the same and I need not labour all over again. For the sake of brevity, relevant of the same is extracted as below:

“19. Likewise in CWP 19793 of 2017 decided by this Court the stand taken by the respondents was that at the relevant date of entitlement for regularization, petitioner was not in service. It was noticed by this Court and relief of regularization was granted to the petitioner therein by holding that continuity of service had been granted to the petitioner by the labour Court by directing his reinstatement. As already stated above, claim of the petitioner arises out of discriminatory treatment meted out to him, in as much as, his juniors appointed in the same District Office (Hisar depot) were regularized before the petitioner and regularization to the petitioner was denied on the ground that he stood transferred to another District (Kurukshetra depot) on the date for regularization.

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23. In the aforesaid premise, seen from any angle, none of the defenses put forth by the respondents is legally sustainable. Indisputably, the petitioner had been appointed on 01.12.1993. Services of subsequently appointed daily wagers Ram Phal (04.11.196) and Jai Singh (19.01.1987) were regularized from 25.08.1988 and 31.03.1993 respectively. This being the position, the petitioner seems entitled to regularization of services from the date of regularization of services of Ram Phal, who was appointed after the petitioner. It is, therefore, held that the petitioner is entitled to regularization of services from the date of regularization of services of Ram Phal, who was appointed after the petitioner, as per the policy then applicable for regularization of daily wagers appointed on the post of Welder or equivalent post of Blacksmith.”

3. Similar views were expressed by me, though in somewhat different words while disposing of CWP No.19793 of 2017, as below:

“16. First, qua the denial of claim of regularization. Respondents’ defense does not stand judicial scrutiny. Reasons are not far to see. A bare perusal of the record of the case itself would show that the benefit has wrongly not been accorded to the petitioner. The stand of the respondents flies in the face of the Labour Court award dated 10.04.2000 (Annexure P-1), vide which the petitioner was held entitled to re-instatement with continuity of service. Meaning thereby, the deserved consequential benefit ensuing out of the same had to be accorded to the petitioner in totality. Needless to say, once the award had attained finality there is no getting away from it and respondents are bound by all the consequences flowing there from. The only modification made in the award by the learned Single Judge, vide order dated 17.09.2009 (Annexure P-2), was: “...The award of the Labour Court is modified only to the extent of back wages by retaining the dispensation for reinstatement that instead of full

back wages, 50% of the back wages be given to the workman.....". Resultantly, the petitioner for all legal purposes has to be considered de jure in service as on 31.01.1996, even though de-facto he was not in service. He is, therefore, held entitled to benefit of regularization of his services w.e.f. 31.01.1996 on that ground alone. Necessarily, all other benefits accruing therefrom viz. fixation and revision of pay and allowances etc. are also to be accorded to the petitioner once he is to be given the benefit of regularization as on 31.01.1996. Because, he could not have been considered a daily wager anymore."

4. In view of the aforesaid, the instant writ petition is allowed.

Respondents are directed to accord the same benefit to the petitioner on parity as already granted to the petitioners in CWP-16325-2012.

(ARUN MONGA)
JUDGE

August 10, 2022

vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No