

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

CWP-18520-2015 (O&M)

Date of decision: April 20, 2022

Ram Parkash

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Yesh Paul Malik, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to regularize the services of the petitioner, in view of the Govt. Notification dated 01.10.2003/10.02.2004 (Annexure P-3 Colly) as he has been reinstated in service with continuity of service and back wages vide Award dated 11.04.2001 (Annexure P-1) alongwith consequential service benefits.

2. Controversy herein is no more *res integra* as I have already opined in various judgments. It was in this background, on hearing dated 28.02.2022, following order was passed:-

“Learned counsel for the petitioner has drawn my attention to the RTI information given to the petitioner vide Annexure P-7, to contend that as many as five employees, who were junior to the petitioner have been regularized. Whereas, claim of the petitioner has been rejected ostensibly on the ground that no junior to the petitioner has been accorded benefit of regularization. Not only this, he has also been non suited merely because he was reinstated vide an award dated 11.04.2001. Notwithstanding, that he was though accorded continuity of service, but since he did not physically work for certain period, his claim to seek regularization has not been accepted.

Learned State counsel strenuously controverts that no junior to the petitioner has been granted regularization. Let an affidavit of the competent authority be filed to clarify the aforesaid averments of the petitioner.

Post it on 22.03.2022.”

3. *Apropos* above, an affidavit dated 29.03.2022 by Rahul Jain, General Manager, Haryana Roadways, Sonipat, has been filed, wherein, following stand has been taken in Para-3:-

“3. *That the employees mentioned in Annexure P-7 are junior to petitioner Ram Parkash but were regularized before the passing of landmark judgment in the case of Secretary, State of Karnataka and others Vs Uma Devi and others (2006) 4 SCC 1 and issuing Government of Haryana Instruction No.43/31/6-IGSI dated 25th April, 2007.”*

4. A perusal of the above leaves no manner of doubt that the contention of the petitioner is concededly correct that while juniors to him were accorded benefit of regularization but the claim of the petitioner stands denied ostensibly on the ground that before his case could be considered, the Apex Court judgment in the case of **Secretary, State of Karnataka and others versus Umadevi and others**, reported as (2006) 4 SCC 1 had been rendered and therefore, the petitioner was held disentitled in view thereof.

5. Hon'ble Supreme Court in **Umadevi's case (supra)** has held that employees who have rendered 10 years of continuous service are entitled to regularization of service as a one-time measure subject to certain parameters as laid down in the said judgment.

6. I have already discussed in my earlier judgments in CWP-1711-2012 and CWP-11219-2009 as to how the ratio rendered in **Uma Devi's case (supra)** *ibid* is being misinterpreted by the State functionaries in order to deny the claim to those who are otherwise eligible. In fact what has been stated and hold in **Uma Devi's case (supra)** is that those employees who had rendered

long years of service i.e. more than 10 years, their cases ought to be considered on priority by granting them regularization and State was expected to make appropriate regularization policy in terms of the judgment. Accordingly, on both counts either on **Uma Devi's case (supra)** or even otherwise on the ground of parity, the petitioner could not have been denied the benefit of regularization. Merely because there was delay on the part of the officials to consider the case of the petitioner, he ought not and cannot be put to any adverse consequence on the plea that before his case could be taken up, Apex Court's judgment in **Uma Devi's case (supra)** had come on 10.04.2006. The petitioner had been in service already for about 20 years since his initial appointment was made in the year 1994. This is not denied in the return filed by the respondents.

7. Petition is, thus, allowed. Petitioner be accorded benefit of regularization w.e.f. the date his juniors were granted the benefit of regularization of their services. However, back date monetary benefits arising therefrom are confined to 38 months prior to the date of filing of the petition. He shall be entitled to other notional benefits including seniority w.e.f. the date the services of his juniors were regularized.

8. Let the needful be done within three months from the receipt of this order.

(ARUN MONGA)
JUDGE

April 20, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No