

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23539-2015

DATE OF PRONOUNCEMENT: 30.09.2022

SURESH KUMAR

... Petitioner(s)

Versus

DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. AND ORS.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr.Vivek Khatri, Advocate for the petitioner.

Ms.Anupama Sharma, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J.

The petitioner has impugned the order dated 28.10.2015 (Annexure P-17) whereby his claim for regularization of his services has been rejected.

Learned counsel for the petitioner submits that the petitioner was appointed as a part-time Chowkidar on 01.10.1993 and he had been continuing on that post till 01.03.2001 whereon his services were illegally terminated by the respondents. He had preferred a demand notice under Section 2-A of the Industrial Disputes Act, 1947 and by the Award of the Labour Court dated 17.01.2006, he had been reinstated in service along with 50% back wages. The petitioner had represented to the respondents for regularization of his services as two similarly situated persons namely Rampal and Ansuiya Parshad, who were junior to the petitioner had been regularized. He also submits that the petitioner is entitled to regularization in terms of the Policy issued by the respondents.

Learned counsel for the respondents, however, submits that there were several breaks in the services of the petitioner and therefore, he was not found entitled to regularization in terms of the 2003 Policy which requires continuous service of 10 years. The respondents had formulated policy of regularization in the year 2014 but the same has been kept in abeyance. He also submits that the Division Bench of this Court in **CWP No.17206 of 2014** titled as **Yogesh Tyagi and another Vs. State of Haryana and others** decided on **31.05.2018**, had held that policies dated 16.06.2014, 18.06.2014 and 07.07.2014 for regularization of services of employees on *ad hoc*/contract/work charge/daily wages have been framed in violation of the Supreme Court judgment and were quashed. The State government had challenged the judgment by preferring the **SLP (Civil), Dairy No.33265 of 2018** titled **State of Haryana and others Vs. Yogesh Tyagi and another** and the Supreme Court by the order dated 26.11.2018 had directed the parties to maintain *status quo*.

Heard.

The petitioner is stated to have joined as a part-time Chowkidar. He is stated to have been absent from duty for about 4 months from 01.03.1997 to 31.07.1997. His services had been terminated on 01.03.2001 but he had been reinstated in service by the Award of the Labour Court vide order dated 24.01.2006.

A part time worker, who had completed at least 10 years of continuous service on the date of issuance of the policy, was entitled to regularization in terms of the policy of Government of Haryana issued on 05.05.2015 and duly adopted by the respondents on 30.05.2015. The petitioner had a break in service of about 4 months and therefore, he had not

completed the requisite period of 10 years to be entitled for regularization. The respondents have framed other policies including the policy issued on 16.06.2014 but it has been kept in abeyance. The Supreme Court had also directed the parties to maintain *status quo*.

Insofar as the contention of the learned counsel for the petitioner that two juniors namely Rampal and Ansuiya Parshad had been regularised by ignoring the claim of the petitioner is concerned, it has been stated by the respondents that the two persons were continuing service w.e.f 1993 while they had continuous service of 10 years which was mandatory for regularization in terms of the 2003 policy while the petitioner had been absent from duty for about 4 months and had put in continuous service w.e.f. 01.08.1997.

Consequently, I do not find any infirmity in the impugned order denying the claim of the petitioner for regularization at this stage. The petition stands dismissed. It is, however, clarified that in the event of the policy issued in 2014 being operational or the respondents formulate any other policy henceforth the case of the petitioner for regularization would be considered thereunder.

(ANUPINDER SINGH GREWAL)
JUDGE

30.09.2022

SwarnjitS

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