

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

LPA-1444-2019 (O&M)

Decided on : 28.07.2022

Surinder Paul

... Appellant

Versus

State of Punjab & others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present:- Mr.Ranjivan Singh, Advocate
and Ms.Kanika Toor, Advocate, for the appellant.
Mr.APS Gill, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

Consideration in the present appeal is to the order passed by the learned Single Judge on 29.11.2018 in CWP-3438-2010. The learned Single Judge though had granted the benefit of regularization but had restricted the arrears to 38 months from the date of filing the writ petition.

Counsel for the appellant has thus argued that regularization of the appellant was held up on account of the pendency of the writ petition and there was no fault of his since the State itself had preferred writ petition against the order of the Labour Court. Therefore, it would be in the interest of justice if the benefit of regularization is granted from the date the appellant would be entitled to, after his case was considered for regularization.

A perusal of the factual matrix would go on to show that the appellant was working on work-charge basis since 1983 as Assistant Laboratory Attendant till 31.08.1986. On account of being retrenched, he had raised an industrial dispute and award dated 07.11.2001 was passed in his favour wherein he was directed to be reinstated with continuity in

service but without back-wages. The State had challenged the same in CWP-13718-2002 which remained pending in this Court without any interim order. Resultantly, the workman was allowed to join on 16.05.2003 and apparently, on 21.04.2005 (Annexure R-4) he was also given annual increments. He was also granted due pay fixation with annual increments w.e.f. 20.12.1983 as per order dated 23.05.2011 (Annexure P-8) but the benefit of regularization had not been granted due to the pendency of the writ petition. Resultantly, he filed writ petition in the year 2010 seeking the benefit of regularization on the strength of the policy dated 23.01.2001 (Annexure P-1). Since he had retired on 30.06.2014, the writ petition filed by the State challenging the award of the Labour Court, was disposed of as infructuous on 10.11.2016 [Annexure P-7 (Colly.)] by the Daily Lok Adalat on account of the workman having retired and paid the retiral benefits. CWP-3438-2010 wherein the claim of regularization was made had been returned to the High Court by the Daily Lok Adalat on the same day and eventually the said writ petition was allowed on 29.11.2018.

It is thus apparent that on account of the litigation the claim of the appellant could not be duly considered as per the policy dated 23.01.2001, which provided that the benefit had to be granted on completion of 3 years of service. However in the present case since there is a rider that the petitioner is not to be allowed any back-wages as per the award of the Labour Court, his case for regularization can only be considered from the date of the award of the Labour Court and not on a

prior point of time. The State has also not chosen to challenge the order of the learned Single Judge.

Accordingly, we are of the considered opinion that the order restricting the relief only for a period of 38 months for the benefit of regularization, would not be justified in the facts and circumstances, keeping in view the fact that at the instance of the State, the matter was pending before this Court and the appellant cannot be faulted for that. He would thus be entitled for the benefit of regularization as per the policy which was in force and he has to be given the due benefits. Accordingly, we modify the order of the learned Single Judge with the clarification that arrears on regularization would be considered from 07.11.2001 and he will be given the consequential benefits on the basis of the order which shall be passed by the State, within a period of 3 months from today.

The present appeal stands allowed, accordingly.

(G.S. SANDHAWALIA)
JUDGE

July 28, 2022
sailesh

(VIKAS SURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No