

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

CWP-9701-2016 (O&M)

Date of decision: August 30, 2022

Chanderpati (now deceased) through LRs

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. S.K. Verma, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

CM-13274-CWP-2022

For the reasons stated in the application, the same is allowed.

Annexures R-2 and R-3 are taken on record, subject to all just exceptions.

Main case (O&M)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing order dated 08.03.2016 (Annexure P-9) whereby respondent No.2 has rejected the claim of the petitioner for regularization of her services.

2. Succinct factual background first. Petitioner was engaged as Beldar-cum-Mali in the year 1981. She worked continuously upto 31.05.2001. On 01.06.2001, when petitioner reported for her duty, she was not allowed to join by verbally saying her services are no more required. Petitioner sent a demand notice dated 08.07.2002 under Section 2-A of the Industrial Disputes Act, 1947 (for short 'ID Act') through her counsel

requesting reinstatement. Reference No.74 of 2004 was sent to the Labour Court for adjudication. Labour Court passed award dated 17.11.2009 while observing that termination of service of the petitioner was in violation of mandatory provisions of Section 25-F of the ID Act, but denied reinstatement on the ground that initial appointment of the petitioner was not in consonance with the statutory rules and in violation of Article 14 and 16 of the Constitution of India, instead granted compensation of Rs.35,000/-. Aggrieved with the same, petitioner preferred CWP-14250-2010, which was allowed vide judgment/ order dated 04.07.2013 (Annexure P-2) *inter alia* directing petitioner to be reinstated with continuity of service. In compliance thereof, vide order dated 19.08.2013 (Annexure P-3), petitioner was reinstated in service. Respondent-Department also filed LPA-215-2014, whereby aforesaid judgment was upheld and only reducing the back-wages to 20%. After joining petitioner came to know that services of her juniors, namely Lillu Ram son of Sh. Bhana Ram and Gulia son of Shri Naurang had been regularized by the respondents/ Department w.e.f. 31.01.1996 in view of the policy dated 07.03.1996 and its modification dated 18.03.1996 issued by the State Government for regularization of services of Work Charged/ Casual/ Daily-rated employees, who had completed 3 years of service on 31.01.1996 and were in service on that day. Petitioner thereafter, made representation dated 25.08.2014 (Annexure P-6) to respondent No.3 for regularization of her services w.e.f. 31.01.1996. When respondents did not take any action, petitioner served legal notice dated 12.04.2015 (Annexure P-7). Thereafter, petitioner again preferred CWP-21643-2015 and the said writ petition was disposed of vide order dated 09.10.2015 (Annexure P-8)

directing respondent No.2 to take a decision on the legal notice by passing a speaking order after affording opportunity of hearing. Respondent No.2 rejected the claim of the petitioner vide order dated 08.03.2016 (Annexure P-9). Hence, the writ petition.

3. I have heard competent contentions of the learned counsel for the parties and perused the record.

4. Learned counsel for the petitioner relies on the decision rendered by the Division Bench of this Court in **CWP-5578-1996** titled **Surinder Kumar versus State of Punjab and another**, wherein following has been held:-

“The regularization of the petitioner has been declined solely on the ground that the instructions dated 18.1.1995 have been withdrawn by way of instructions dated 26.2.1996. In fact, petitioner’s right for regularization fructified on 18.1.1995 when the instructions were issued and the cases were required to be considered within a reasonable period. The withdrawal of instructions dated 18.1.1995 on 26.2.1996 were not with retrospective effect nor a right once conferred on the petitioner could have ordinarily been withdrawn. In view of this, the respondents are directed to consider the case of the petitioner for regularization in terms of instructions dated 18.01.1995 within six months in accordance with law. With the said direction, the writ petition is disposed of.

5. Concededly, junior to the petitioner, namely Sh. Lilu Ram son of Sh. Bhaja Ram as specifically mentioned in Para-9 of the petition, has been accorded the benefit of regularization vide office order dated 16.10.2006 (Annexure R-2) w.e.f. 01.10.2003. Said order was further amended vide an office order dated 21.10.2013 (Annexure R-3) and his services were regularized w.e.f. 01.12.1996 instead of 01.10.2003.

6. I see no reason why the petitioner be also not accorded the same benefit.

7. Accordingly, writ petition is allowed in terms of decision *ibid* of the Division Bench. Respondents are directed to accord the benefit to the petitioner of regularization of the petitioner's services as has been granted to her junior vide office order dated 16.10.2006 (Annexure R-2) and order dated 21.10.2013 (Annexure R-3). Monetary benefits be given on the same terms as were awarded to the junior who was accorded regularization of services in terms of office order *ibid*. Arrears be also granted in terms of office order *ibid*.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 30, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No