
Sant Lal vs. State of Haryana and others

Present: Mr. Deepak Sonak, Advocate,
for the applicant-petitioner.

Mr. Aman Bahri, Addl. A.G., Haryana.

RA-CW-410-2017

Vide this application, the applicant (petitioner in the accompanying petition), seeks a review of the order passed by this court on 28.07.2017 (dismissing the petition), holding that the petitioner was not entitled to regularization of service for the reasons given in that order.

On 01.09.2017, the following order was passed by this court in this application:-

“Learned counsel for the petitioner submits that though the petitioner's case is covered in his favour by the judgment of a coordinate Bench in CWP No.16325 of 2012 (Annexure P-12), the effect of that judgment on the petitioner's case has not been noticed in the order of this Court dated 28.07.2017, by which the petition was dismissed in limine.

Notice of motion in Review Application, as also in the Writ Petition itself, returnable by 03.11.2017.”

Pursuant thereto, a reply to the review application has also been filed on behalf of the respondent-State, dated 10.12.2018.

Learned State counsel point out that this court had already dealt with the matter in detail, holding that as regards the period 1995 to 2003, no record with respect to his service during that period is presently known and as regards the period 2007 to 2013, it has been held that the petitioner cannot claim regularization in terms of the policy of the year 2003, the continuity granted by the labour court being for subsequent years, and therefore there would be no ground to review the said order.

Learned counsel for the applicant-petitioner on the other hand submits that, firstly, the observation of this court as regards the period between 1995 and 2003, in fact it is contrary to the record, inasmuch as even in the Award passed by the learned labour court dated 13.03.2013 (copy Annexure P-1 with the accompanying petition), it has been specifically stated in paragraph 12 thereof that even the respondents admitted that the petitioner had been in service continuously from 01.10.1995 to 31.12.1999 and thereafter again from 01.01.2000 to 31.03.2006.

On the strength of the aforesaid fact, the labour court went on to passed an Award in favour of the petitioner.

He further submits that another regularization policy having come in the year 2014, the petitioner on the strength of that also would be entitled to regularization; and though the said policy has been struck down by this court in **Yogesh Tyagi and another** vs. **State of Haryana and others** (CWP No. 17206 of 2014), decided on 31.05.2018, however, the State of Haryana itself has filed Special Leave Petition No. 31566 of 2018 before the Supreme Court challenging that decision.

[It is to be noticed that this court has referred to a policy dated 01.10.2014 in the last paragraph of the order dated 28.07.2017, to the effect that it was under consideration of a Division Bench, with learned counsel for the petitioner in fact however submitting that actually the date of the policy was 18.06.2014].

Having considered the matter, since the State of Haryana itself is admitted to have filed the aforesaid petition before the Supreme Court challenging the order of this court striking down the said policy/any part thereof, it would therefore need to be seen that as to whether the petitioner would be able to succeed in terms of the said policy if at all the SLP filed by the State succeeds before the Supreme Court.

Other than that, even as regards the ground for review, i.e. an error patent on the face of the record, it is seen that the petitioners' continuous service from 1995 to 2003, as was found to be so by the Labour court, was not referred to by me in the judgment dated 28.07.2017.

Consequently, the application is allowed and the order dated 28.07.2017 is recalled with the accompanying petition ordered to be restored to its original status as existed immediately prior to that order. The respondents would file a detailed written statement in reply to the petition.

CWP No. 16540 of 2017

To be listed as per roster.

(Though correctly notice in the petition itself should not have been issued (by me) at the time that notice was issued in the review application, yet notice of motion having factually been issued in the main

petition itself also on 01.09.2017 (which earlier was dismissed in *limine* 28.07.2017), obviously, issuance of notice again would be superfluous.

May 09, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE