

CM-1008-C-2023 ;
CM-1007-C-2023 ;
CM-1009-C-2023 in/and
RSA-270-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110) CM-1008-C-2023 ;
CM-1007-C-2023 ;
CM-1009-C-2023 in/and
RSA-270-2023
Date of Decision : 15.03.2023

State of Haryana and others

...Appellants

Versus

Ram Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

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Present application has been filed seeking condonation of delay
of 28 days in filing the appeal.

Keeping in view the averments made in the application, which
are duly supported by an affidavit, the same is allowed and delay of 28 days
in filing the appeal is condoned.

CM-1007-C-2023

Application is allowed, as prayed for.

RSA-270-2023

In the present regular second appeal, the challenge is to the
judgment and decree of the trial court dated 17.08.2018 by which, the suit

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filed by the respondent-plaintiff seeking regularization w.e.f. 01.04.1993 has been allowed on the post of Water Pump Operator as well as to the judgment and decree of the lower appellate court dated 30.09.2022 by which, the appeal preferred by the appellants-defendants was dismissed.

Learned counsel for the appellants-defendants argues that in the present case, the grant of benefit by the courts below of regularizing the services of the respondent-plaintiff w.e.f. 01.04.1993 and that too on the post of Water Pump Operator is contrary to the facts and evidence on record. Learned counsel further argues that the respondent-plaintiff was appointed as Mali-cum-Chowkidar on which post, his services were regularized in the year 2003 hence, granting of the benefit of regularization of services to the respondent-plaintiff w.e.f. 01.04.1993 and that too on the post of Water Pump Operator by the courts below is liable to be set-aside.

A bare perusal of the judgment and decree of the trial court in paragraph 14, the witnesses produced by the department conceded a fact that the respondent-plaintiff was working as a Water Pump Operator since the year 1987 and not as a Mali-cum-Chowkidar. Concededly, there was no appointment order in favour of the respondent-plaintiff hence, in the absence of the said appointment order, which is usually not issued in the case of the daily wage employee, the fact conceded by an official of the department has rightly been taken into account to hold that the respondent-plaintiff was working as a Water Pump Operator and not as a Mali-cum-Chowkidar i.e. on the post on which the services of the respondent-plaintiff were regularized in the year 2003.

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Further, it is a conceded fact, which has not been disputed by learned counsel for the appellants-defendants that the respondent-plaintiff was appointed on 01.11.1987 and his services were terminated on 30.11.1988, which order terminating the services of the respondent-plaintiff was set-aside by the Labour Court on 13.01.1995 and he was reinstated in service with full back wages. That being so, the respondent-plaintiff was to be treated in service for all intents and purposes from 01.11.1987 hence, as per the Instructions issued by the department dated 01.04.1993, an employee, who had 5 years of service in his credit, was entitled to be regularized.

Once, by a deeming fiction, the respondent-plaintiff was to be treated in service from 01.11.1987 and by 31.03.1993, he had 5 years of service in his credit hence, he was entitled for regularization of his services from 01.04.1993, which benefit was accorded by the appellant-department to the other similarly situated employees also. Hence, grant of benefit by the courts below in favour of the respondent-plaintiff in the impugned judgments cannot be treated to be against the Policy of the Government.

Further, it has already come on record that similar relief has already been accorded to a large number of similarly situated employees by this Court also in CWP No. 18974 of 1998 titled as ***Abdul Kayyum and another Vs. State of Haryana and others***, decided on 26.09.2000 and CWP No. 681 of 1998 titled as ***Naresh Kumar Vs. State of Haryana and others***, decided on 08.08.2001, which relief has already been upheld upto the Hon'ble Supreme Court of India.

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Once, a similar relief has already been extended by this Court in case of the similarly situated employees, no interference is called for by this Court in the present regular second appeal qua the judgments and decrees of the courts below, especially when, no perversity has been pointed out.

Dismissed.

CM-1009-C-2023

As the main appeal has been dismissed, the present application also stands dismissed.

March 15, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No