

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

(103)

**CM No.9376-C of 2022 in/and
RSA No.742 of 2020 (O&M)
Date of Decision : 18.04.2023**

State of Haryana and others

...Appellants

Versus

Brij Pal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana
for the appellants.

Harsimran Singh Sethi J. (Oral)

CM No.9376-C of 2022

The present application has been filed by the appellant-State to continue the stay granted vide this Court order dated 25.02.2020, as the execution proceeding is pending.

Application is disposed of and the main case is taken up for hearing today, as the execution proceeding is pending.

RSA No.742 of 2020

The present Regular Second Appeal has been filed against the judgments and decrees of the Courts below dated 16.03.2018 and 13.10.2018 by which the suit filed by the respondents-plaintiffs has been allowed and the appeal filed by the appellants-State has been dismissed.

The respondents-plaintiffs filed a suit claiming the benefit that they were appointed on the post of Water Pump Operator on daily wages basis in the year 1987, which is Class III post and they have been performing the duties of the said post and were entitled for regularization on the said post on completion of five years of service keeping in view the regularization policy issued by the department dated 27.05.1993 but their services have been regularized on Class IV post without any application of mind, Civil Suit was filed to claim regularization of their services on the post of Water Pump Operator instead of Class IV post.

While filing a Civil Suit, reliance was placed upon the judgment of this Court in similar cases wherein, similarly situated Water Pump Operators, who were also appointed on the said post of Water Pump Operator but their services were regularized on Class IV post, were granted the benefits of regularization of their services on Class III post of Water Pump Operator.

The suit filed by the respondents-plaintiffs was allowed by the trial Court holding that as per the evidence, which has come on record even the defence witness i.e. Sub Divisional Engineer, who appeared as DW1 conceded the fact in his cross-examination that the respondents-plaintiffs were appointed as Water Pump Operator in the year 1986 and were continuing on the said post at the time of regularization of their services on a class IV post.

Against the judgment and decree of the trial Court dated 16.03.1980, an appeal was preferred by the appellants-State, which was also dismissed by the lower Appellate Court on 13.10.2018.

Hence the present Regular Second Appeal.

Learned counsel for the appellants-State argues that once the services of the respondents-plaintiffs were regularized on Class IV post, their services could not have been regularized on Class III post of Water Pump Operator and the Courts below ignored the said factum while allowing the suit filed by the respondents-plaintiffs and dismissing the appeal filed by the State against the judgment and decree of the trial Court.

On being asked that once the respondents-plaintiffs were working on a Class III post of Water Pump Operator from the day one of their appointment, then why their services were regularized on Class IV post, no reply came forward for any valid justification.

Further, learned counsel for the State conceded the factum that similarly situated employee, namely, Abdul Kayyum, who filed CWP No.18974 of 1998, which was decided on 26.09.2000, was directed to be considered for the post of Water Pump Operator for the regularization of his services instead of a Class IV post. Similar relief was also given by this Court to one Naresh Kumar, who filed CWP No.681 of 1998, which was decided on 08.08.2001. The said decision, of this Court has already attained finality upto the Hon'ble Supreme Court of India hence, the grant of the same relief by the Courts below in favour of the respondents-plaintiffs cannot be treated to be perverse either on facts or on law.

Rather same is in consonance with the relief given by the Court to the other similarly situated employees, which judgment of this Court has already been upheld by the Hon'ble Supreme Court of India and similarly situated employees have already been extended the same relief.

Further, no perversity in the findings recorded by the Courts below have been brought to the notice of this Court by the learned counsel for the appellants-State. Hence, in the absence of any perversity being point out, no interference is being called for by this Court in the present Regular Second Appeal and the same is accordingly dismissed.

April 18, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No