

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

204

CWP-16741-1997

Date of Decision :-03.10.2023

Ram Asrey

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Abha Rathore, Advocate for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, the claim of the petitioner is that he is entitled for regularization of his services from the date persons junior to him were regularized and is also entitled for further promotion with effect from the date persons junior to him were promoted.

As per the factual averments made in the petition, the petitioner was appointed on daily wage basis as Clerk in the office of respondent No.2 w.e.f. 09.09.1987 and while working on the said post, he was not being paid salary of the post of clerk for which grievance, the petitioner approached the Labour Court for directing the respondents to pay him salary in the pay scale of Rs.950-1400/-. As per the petitioner, rather than rectifying their mistake qua the grant of salary, the respondents illegally terminated the services of

the petitioner on 11.5.1991, which action of the respondents was challenged by the petitioner by raising an industrial dispute before the Labour Court and by an award dated 07.04.1994 passed by the Labour Court, the order of termination of services of the petitioner was held to be bad and he was directed to be reinstated in service with continuity in service and full back wages.

While the petitioner remained out of service in pursuance to order dated 11.05.1991 passed by the respondent-department, which order was subsequently set aside by the Labour court, the juniors of the petitioner, who were in service, their services were regularized from 01.05.1992 and as per the petitioner, 08 employees, who were junior to the petitioner, details of whom have been given in para-6 of the present petition, were made regular incumbents from 01.05.1992 hence, the prayer of the petitioner is for the grant of benefit of regularization of his services from the said date.

Further claim of the petitioner is that as his juniors were further promoted, the said benefit of promotion should also be extended to the petitioner with all consequential benefits.

In reply, the respondents have not disputed the factual averments of the petition but the only stand taken by the respondent-department to rebut the claim of the petitioner is that services of the petitioner were terminated in the year 1991 thereafter, he was reinstated in services, he has also been granted benefit of regularization of his service from year 1995 hence, no further benefit is liable to be extended to the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a matter of fact that services of the petitioner were terminated in the year 1991, which order was set aside by the labour Court and the petitioner was directed to be reinstated in service with full back wages.

That being so, the petitioner was given same position in the seniority as he was enjoying at the time when impugned order terminating his services was passed by the respondent-department. In the reply filed by the respondents, it has not been denied that persons junior to the petitioner, details of whom have been given in para-6 of the present petition, were regularized in service from 01.05.1992. That being so, benefit of the said regularization of service from the same date from which the juniors of the petitioner were regularized should also be extended to the petitioner with all consequential benefits. Further averment that juniors of the petitioner, as mentioned in para-15 of the present petition, were further promoted, has also not been denied by the respondents. That being so, the petitioner also becomes entitled for further promotion from the date persons junior to him have been promoted subject to his eligibility.

Keeping in view the facts and circumstances noticed hereinbefore, the present petition is allowed qua the grant of regularization of service of the petitioner from 01.05.1992 with all consequential benefits.

With regard to the claim of the petitioner for further promotion from the date persons junior to him have been promoted, the respondents are directed to consider the claim of the petitioner within a period of 08 weeks from the date of receipt of copy of this order and in case petitioner is found eligible for promotion from the date persons junior to him were promoted, the said benefit be also extended to the petitioner with all consequential

benefits and in case it is found that petitioner is not entitled for the said relief, an appropriate speaking order be passed for the information of the petitioner so that in case petitioner feels aggrieved with the same, he can avail an appropriate remedy.

Present petition stands allowed in above terms.

Civil miscellaneous application pending, if any, stands disposed of.

October 03, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No