

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

(326)

CWP-18523-1998

Date of Decision : September 02, 2023

Niranjan Singh**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Tarun Yadav, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present petition has been filed by the petitioner with a prayer that the order dated 03.03.1998 (Annexure P-7) passed by the respondents declining the prayer of the petitioner for regularizing his services from the date persons junior to him were promoted be set aside being arbitrary and illegal.

2. Further prayer of the petitioner is to direct the respondents to consider the petitioner as regular employee w.e.f. the date persons junior to him were regularized on completion of 240 days.

3. Certain facts may be mentioned for the correct appreciation of the issue in hand.

4. The petitioner was appointed as Assistant Carpenter on daily wage basis on 10.10.1984 in the Haryana Roadways Depot at Rewari.

Petitioner kept on working as such till his services were terminated on 03.09.1985, which action of the respondents was challenged by the petitioner by raising an industrial dispute. The Industrial Tribunal gave an Award in favour of the petitioner vide Award dated 10.08.1993 by which, the petitioner was directed to be reinstated in service with continuity of service with full back wages. The said Award was accepted by the respondents and in pursuance to the said Award, the petitioner was reinstated in service along with the benefit of continuity in service and was paid salary for the period petitioner remained out of service.

5. It may be mentioned that during the period when the petitioner was out of service, the respondents had issued a policy for regularization of the services of the employees, who had completed 240 days in service. The said policy was made applicable upon all who were working at the relevant time and the employees who were appointed after the petitioner but were working, their services were already regularized starting from September 1985, details of whom have been given in paragraph 8 of the writ petition.

6. Though, the petitioner's claim for regularization of services was accepted but the same was made applicable only w.e.f. 03.04.1994 and not from the date when the persons junior to the petitioner were regularized.

7. As the said benefit of regularization of his service from a date when his junior was regularized, was not being extended to the petitioner, the petitioner filed a writ petition being CWP No.6460 of 1997 before this Court seeking the benefit of regularization from the date when persons junior to him were regularized, which petition was disposed of by this Court on 12.05.1997 directing the respondents to pass an appropriate order on the claim of the petitioner seeking retrospective regularization of the petitioner in service. In pursuance to the direction given by this Court, the respondents

passed an order on 03.03.1998, a copy of which has been appended with this petition as Annexure P-7, declining the said benefit to the petitioner. Though, in the said order itself, the respondents conceded the factum that the persons junior to him were regularized but it was mentioned that their services were regularized keeping in view the order passed by this Court in the writ petition filed by them and the petitioner's services have also been regularized as and when the said came up for consideration before the authorities.

8. The order dated 03.03.1998 (Annexure P-7) is under challenge in the present petition along with the further prayer that the respondents be directed to consider the claim of the petitioner for regularization of his services from the date when persons junior to him were regularized.

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

10. It may be noticed that keeping in view the facts and circumstances mentioned hereinbefore, the petitioner is to be treated in continuing service starting from 10.10.1984. Even for the period when the petitioner remained out of service i.e. 04.09.1985 till the passing of the Award dated 10.08.1993, the petitioner has been given continuity in service with full back wages, which benefit has already been extended to the petitioner. The net result is that the petitioner is to be treated in continuous services with all benefits w.e.f. 10.10.1984.

11. It is also a conceded fact that in the year 1985 itself, keeping in view the regularization policy which was adopted by the respondents, the employees who were in service, their claim was considered and they were regularized in service and juniors to the petitioner as well as similarly situated, whom details have been given in paragraph 8 of the writ petition,

have been regularized.

12. Had the petitioner been in service at the relevant time, his services would have been regularized by the respondents as there is no objection even in the impugned order that the petitioner was not eligible for the grant of the said benefit as per the policy in question.

13. The only objection which is raised by the respondents for non-grant of benefit is that the petitioner was not in service at the relevant time and once the petitioner was not in service in the year 1985 when the benefit of regularization was given to the juniors coupled with the fact that the services of the petitioner have already been regularized w.e.f. 1994, grant of benefit to the petitioner from the year 1985 does not arise as the petitioner was not in service at the relevant time.

14. The said objection cannot be accepted as once by the Award of the Labour Court, the petitioner has already been granted continuity of service and has already been paid salary for the period he remained out of service and the petitioner is to be treated in service starting from October 1984 onwards. Hence, the respondents were under an obligation to grant the petitioner the benefit as extended to the other similarly situated employees.

15. The impugned order dated 03.03.1998 (Annexure P-7) is set aside. The respondents are directed to reconsider the claim of the petitioner for regularization in terms of the present order and in case the petitioner is found eligible to be considered for regularization in all respects and fulfil the conditions of the policy of completing 240 days, the petitioner be granted the benefit of regularization from the date persons junior to him were granted.

16. It may be noticed that in case the petitioner is found entitled for the benefit, he will only be entitled for notional benefits upto the date of

filing of the present petition after which the petitioner will be entitled for actual consequential benefits.

17. The present writ petition is allowed in above terms.

September 02, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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