

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.6185 of 2019 (O&M)

Reserved on:17.03.2023

Pronounced on: 29.03.2023

Wazir Chand

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sandeep Thakan, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Kuldeep Chaudhary, Advocate for
Mr. S.K. Verma, Advocate
for respondent No.3.

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JAISHREE THAKUR J.

1. The instant writ petition has been filed seeking a writ in the nature of mandamus directing the respondents to regularize services of the petitioner with effect from the date his juniors were regularized in terms of letter dated 20.03.1993 (Annexure P-2).

2. Brief facts as enumerated in the writ petition are that the petitioner was appointed on daily wages on 16.03.1991 on the post of Cane Kamdar in respondent No.3-Sugar Mill against permanent post. Vide letter dated 20.03.1993, respondent No.3 sent a proposal to regularize services of all daily wage employees to the Deputy Commissioner. However, services of the petitioner were terminated by the respondents without assigning any reason and in violation to provisions of Section 25-F of the Industrial Disputes Act, 1947. Against the said action of the respondents, petitioner had filed a claim statement before the Industrial Tribunal-cum-Labour Court, Rohtak, which passed an award dated 08.06.1996 in favour of the petitioner by reinstating him with continuity of service and full back wages.

Thereafter, the petitioner had requested respondents to regularize his services in terms of letter dated 20.03.1993 but till date, said request of the petitioner has not been acceded to. He also served a legal notice in this regard but no action has been taken thereon.

3. Learned counsel appearing for the petitioner would argue that services of persons junior to the petitioner have been regularized by the respondents but despite making requests and issuing legal notice, services of the petitioner have still not been regularized in terms of letter dated 20.03.1993. It is further argued that similarly situated persons had approached this Court by filing CWP No.5710 of 2011 titled as *Pawan Kumar and another Vs. State of Haryana and others* decided on 19.07.2012, which was allowed by this Court and petitioners therein were held entitled to be regularized from the date their juniors stood regularized with all consequential benefits. The aforesaid judgment was further upheld by Division Bench of this Court in an intra court appeal i.e. LPA No.190 of 2013 titled as *State of Haryana and others Vs. Pawan Kumar and another* decided on 09.09.2013.

4. Learned counsel appearing for respondent No.3 would argue that no regularization policy exists in the sugar mills in Haryana and no person working as daily wage Cane Kamdar junior than the petitioner herein has been regularized in service. It was further argued that judgment relied upon by the petitioner in *Pawan Kumar's case* (supra) is not applicable to the facts of the present case.

5. I have heard learned counsel for the parties and with their assistance, have perused pleadings of the case.

6. Admittedly, on 16.03.1991, petitioner herein was appointed as Cane Kamdar on daily wages. Though his services were terminated but he was reinstated in service with continuity of service and full back wages vide award

dated 08.06.1996 by the Industrial Tribunal-cum-Labour Court, Rohtak, meaning thereby, petitioner would be deemed to be in continuous service with respondent No.3 for all intents and purposes. Information received by the petitioner under the Right to Information Act from respondent No.3 vide letter dated 13.06.2016, which is attached with the writ petition as Annexure P-4, would reveal that services of persons mentioned from Sr. No.7 to 28, who were appointed on daily wages under respondent No.3 after 1991 as Cane Kamdar, have been regularized. The judgment relied upon by the counsel appearing for the petitioner in *Pawan Kumar's case* (supra) covers the case of the petitioner as in the said case also petitioners were seeking regularization on the ground that their junior stood promoted, while their claim for regularization had been rejected. Services of the petitioners therein were terminated, however, they were reinstated in service with continuity of service and 50% back wages from the date of demand notice. While allowing the said writ petition, this Court had held the petitioners therein to be entitled for regularization from the date their junior was regularized with all consequential benefits.

7. In view of the aforesaid facts and circumstances, the writ petition is allowed. Respondents herein are directed to consider the case of the petitioner in light of the judgment passed by this Court in *Pawan Kumar's case* (supra) and if he is found entitled, services of the petitioner be regularized w.e.f. the date his juniors were regularized with all consequential benefits. Let the aforesaid exercise be completed within a period of two months from the date of receipt of certified copy of this order.

(JAISHREE THAKUR)
JUDGE

March 29, 2023

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No