

2023:PHHC:048397

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

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CWP No.7766 of 2019

Date of decision: 10.04.2023

RAM KISHAN

...Petitioner

Versus

STATE OF HARYANA AND ANR

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Kamal Sharma, Advocate and
Mr.Raja Sharma, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DAG, Haryana

Mr.Viresh Dahiya, Advocate for
Mr.Deepak Balyan, Advocate
for respondent No.2.

RAJ MOHAN SINGH , J.(ORAL)

The petitioner has preferred this writ petition for the issuance of a writ in the nature of certiorari for quashing of the order dated 24.04.20218 passed by the respondent no.2 and communication dated 20.10.2018 issued by the office of the respondent No.2 rejecting the claim of the petitioner for regularization w.e.f.31.01.1996 under the policy dated 18.03.1996.

The petitioner was appointed as Mortar mate in the respondent department on 01.09.1992. The petitioner remained in service through out till his superannuation on 29.02.2016 from the office of Assistant Engineer, Housing Board, Panipat. The services of the petitioner were regularized in the pay scale of Rs.2550-3200 (Group-D) w.e.f. 01.10.2003, vide order dated 17.12.2004 passed by the respondent No.2. Earlier the Government had issued instructions that the services of those work charge/ casual/ daily wage employees, who had completed five years of service on 31.01.1996 and fulfil other conditions laid therein be regularized vide instructions dated 18.03.1996. The matter was re-considered and it was decided to regularize the services of those work charge/ casual/ daily wage employees, who had completed three years of service as on 31.01.1996 and fulfil other conditions laid down in Haryana Government letter of even number dated 07.03.1996. The claim of the petitioner for regularization under the policy dated 18.03.1996 was rejected on the ground that the petitioner was not in service on 31.01.1996.

Learned counsel for the petitioner has submitted that the services of the petitioner were terminated vide order dated 31.10.1995 and thereafter, the petitioner was reinstated in

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service in the year 2002 with continuity of service. The reinstatement with continuity of service would relate back to the period during which he remained out of service and the petitioner would be deemed to be in service on 31.01.1996 and the impugned order, declining regularization of the petitioner under the policy dated 18.03.1996, is wholly unsustainable and the order of regularization dated 17.12.2004 needs to be revisited by the respondent No.2.

In view of the aforesaid factual position, it is not in dispute that the services of the petitioner were regularized vide order dated 17.12.2004 w.e.f. 01.10.2003. The claim with regard to regularization of the petitioner under the policy dated 18.03.1996 has been declined solely on the ground that he was not in service on 31.01.1996. Since the order of reinstatement with continuity of service has been passed in favour of the petitioner and the said order has attained finality, therefore the petitioner would be deemed to be in service on 31.01.1996 and the order of regularization has to be revisited by the respondent No.2 in accordance with law.

The factual position of the case is not in dispute. Once the continuity of service has been granted to the petitioner, it carries a deeming fiction that the petitioner was in

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service on the day when the instructions came into being on 18.03.1996. The petitioner fulfils all the necessary criteria for regularization in terms of policy dated 18.03.1996.

In view of the aforesaid, this petition is allowed. The respondent No.2 shall take all the corrective steps in accordance with law within a period of two months from the date of receipt of a certified copy of this order.

10.04.2023 (RAJ MOHAN SINGH)
anita JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No