

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 11801 of 2002 (O&M)

Date of Decision: 24.02.2023

Jaswant Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Dinesh Ghai and Mr. Nikhil Ghai, Advocates
for the petitioner(s).

Mr. D.K. Singal, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

CM-22090-2002

1. While granting exemption from filing of the certified copies of the documents (Annexure P1 to P4), the application is allowed.

CM-9702-CWP-2003

2. While granting exemption from filing of the vernacular of the affidavit of the petitioner, the application is allowed.

CWP-11801-2002

3. The petitioner *inter alia* prays for issuance of the writ in the nature of mandamus to direct the respondents to regularize his services and pay him on regular pay scale. During the pendency of the writ petition, his services were dispensed with on 25.11.2003. He has sought to assail its correctness by filing a replication. The petitioner has not chosen to amend the writ petition.

4. The relevant facts, in brief, are required to be noticed. The

petitioner is stated to have joined the office of the Director, Department of Pension and Welfare of Pensioners, Punjab, on 06.06.1990. His services were dispensed with on 17.08.1992. He approached the Labour Court. Vide award dated 12.02.1997, the Labour Court has ordered the petitioner's reinstatement with continuity of service while granting him 50% of the back wages. The writ petition, filed by the State to challenge the correctness of the award passed by the Labour Court, was dismissed. Subsequently, the Supreme Court also declined to interfere in the judgment passed by the High Court. The petitioner was permitted to join his services on 14.01.1998. In the year 2001, the State Government took a policy decision to regularize the services of the workmen who have completed three years of continuous service, subject to certain conditions. It was provided that the services of the daily wagers shall be regularized only on the availability of the vacancy. Since the petitioner's services were not regularized, therefore, he submitted a representation and thereafter, filed the writ petition on 29.03.2002. In the month of March 2002, the petitioner's services were sought to be dispensed with. He filed the Civil Writ Petition No. 5682 of 2003, which was dismissed as withdrawn on 10.04.2003. Thereafter, he filed a miscellaneous application wherein an interim order was passed, however, the same was vacated on 11.11.2003. The petitioner's services were, finally, dispensed with on 25.11.2003 after paying compensation under Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as "the 1947 Act").

5. The learned counsel representing the petitioner submits that the petitioner is still left with six years of service and if his services are regularized and he is reinstated in service, he will get the relief which he

deserves.

6. On the other hand, the learned State counsel submits that in the absence of a vacancy, the services of the petitioner could not be regularized as per the policy and a conscious decision was taken by the department to dispense with his services as he was no longer required.

7. This Court has considered the submissions. A policy adopted by the State to regularize the services of the temporary employees is enforceable subject to certain conditions provided therein. As already noticed, the department has stated that in the absence of any sanctioned vacant posts, the petitioner's services cannot be regularized. It has also been pointed out that the petitioner's services were dispensed with as it were no longer required.

8. As regards the prayer of the petitioner for regularization, he is not in service for the last more than 19 years. Moreover, the petitioner has failed to draw the attention of the Court to any violation of or failure in following the provisions of the 1947 Act.

9. Keeping in view the aforesaid facts, this Court does not find it appropriate to issue the writ. Hence, the present writ petition is dismissed.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 24, 2023
"DK"

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