

CWP-8926-2023

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

(110)

CWP-8926-2023

Date of decision:- 28.04.2023

Shri Bhagwan and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Nonish Kumar, Advocate
for the petitioners.

SUVIR SEHGAL, J. (Oral)

1. Petitioners have approached this Court seeking issuance of a writ in the nature of mandamus directing the respondents to grant them continuity of service, without any monetary benefits, as well as ante-dated regularization of their service from the date similarly situated persons have been regularized. A further direction has been sought to the respondents to decide legal notice dated 28.11.2022, Annexure P-13.

2. Facts, in brief, may be noticed. In December, 1993, during a mass strike in the Transport Department, petitioners and a number of other persons were employed to carry out the essential services. Petitioners were engaged as Washing Boy on daily wages. After a compromise was reached at between the Government and the striking employees, who came back to service, petitioners and other persons were terminated from service. Some of the terminated employees approached the Court and pursuant to directions

passed by the Supreme Court, all the employees, including the petitioners, were reinstated in service. By orders passed in the year 2004, Annexures P-2 and P-3, petitioners were appointed as Washing Boy on contract basis and they continued as such. In the year 2006, there was a shortage of qualified staff to manage the large fleet strength of buses, so option was called for from the mechanical and operational staff of the department for opting for the posts of Conductor/Driver, provided they possess the requisite qualification. By letter dated 09.05.2007, petitioners were appointed as Conductor on temporary basis. On 06.06.2012, respondent No.2 took a decision to revert all the Drivers and Conductors, who had been appointed in the year 2007. This action was challenged before this Court, but the writ petitions filed by the employees were dismissed. In LPA, preferred by some of the aggrieved employees, this Court by judgment dated 07.05.2014, Annexure P-6, while allowing the appeal, directed that they be adjusted as Grade-I Drivers/Conductors as per Rules. It was further directed that they will be granted continuity of service, but they shall not claim any monetary benefits except notional calculation. Petitioners approached this Court by filing CWP-12908-2014, which was disposed by this Court on 08.07.2014, Annexure P-9, by directing respondent No.3 to consider and decide the representations submitted by the petitioners. By office order dated 01.10.2014, Annexure P-11, petitioner No.2 was adjusted as Conductor Grade-I and his pay was notionally fixed. Vide office order dated 22.12.2014, Annexure P-12, service of petitioner No.2 was regularized

notionally w.e.f. 19.09.2013. Claiming that the petitioners are entitled to be regularization from retrospective effect, petitioners have served a legal notice dated 28.11.2022, Annexure P-13, which is pending.

3. Counsel for the petitioners has contended that the services of the similarly situated employees have been regularized w.e.f. 01.06.2007, whereas the petitioners have been regularized from 2013. It is his contention that the petitioners have been discriminated against and they are also entitled to regularization with effect from the day similarly placed employees have been regularized.

4. Heard counsel for the petitioner.

5. Undisputedly, the service of the petitioners was regularized vide order passed in the year 2014. Similar orders have been passed in the case of counterparts of the petitioners around the same time, though they have been regularized from a prior date. On a specific query, counsel for the petitioners could not justify the delay of more than eight years in approaching the Court. No explanation whatsoever has been given in the writ petition. It appears that after the passing of the regularization order, the petitioners were satisfied and they were not interested in pursuing the matter further.

6. Legal position is well settled. Constitution Bench of the Hon'ble Supreme Court in ***State of Madhya Pradesh Versus Bhailal Bhai, AIR 1964 SC 447*** has held that the maximum period fixed by the legislature for filing a Suit in a Civil Court may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be

measured. The Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy, but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable.

7. Mere filing of a representation that also eight years after the cause has arisen, will not revive the claim, which has become dead and stale by the afflux of time. This Court is, therefore, not inclined to interfere in the stale claim or to accept the request of the counsel for the petitioners that the pending representation, filed too late in the day, should be directed to be decided in a time bound manner.

8. In view of the above discussion, this Court is of the opinion that the writ petition is hit by delay and laches and no relief can be granted to the petitioners.

9. Petition is dismissed.

28.04.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No